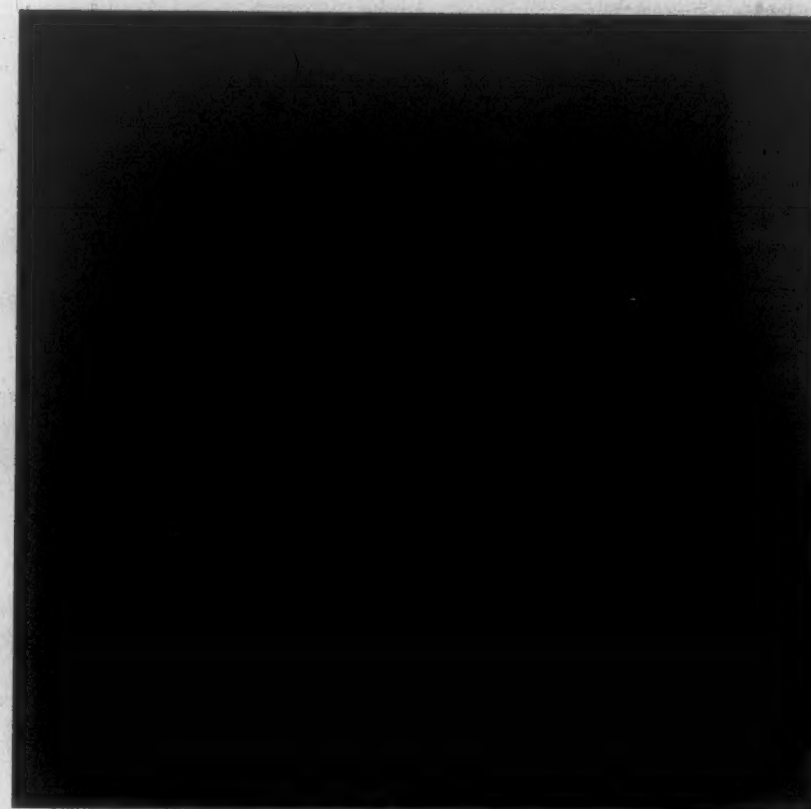
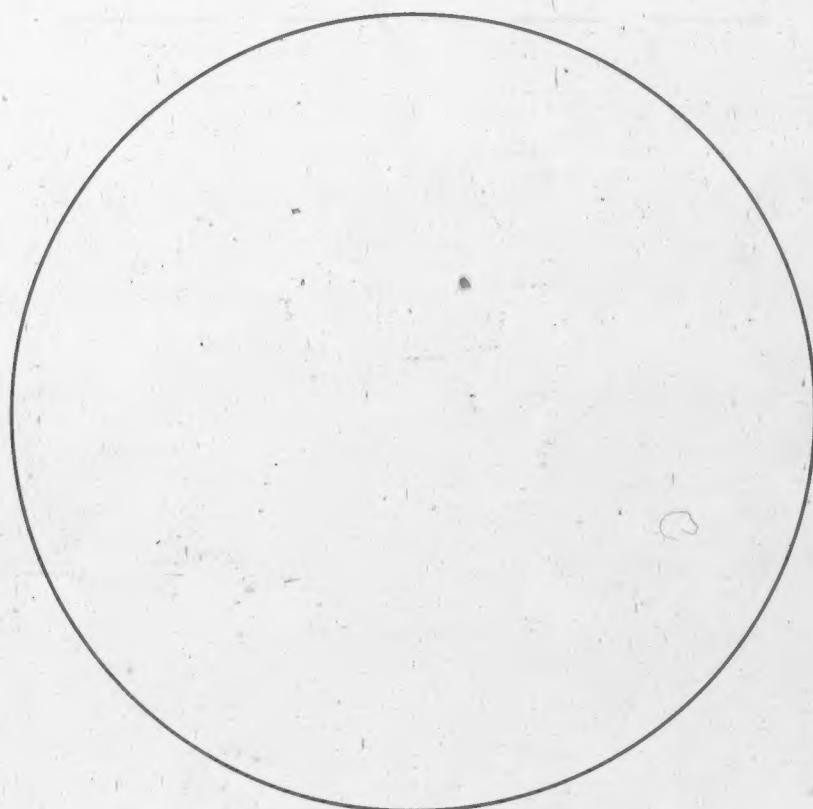
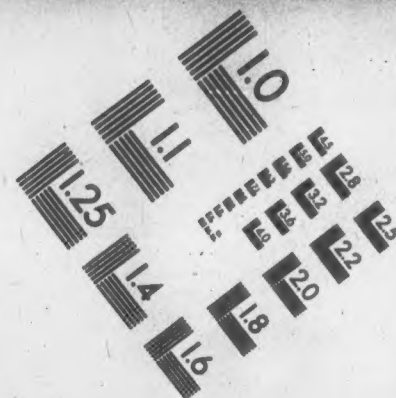
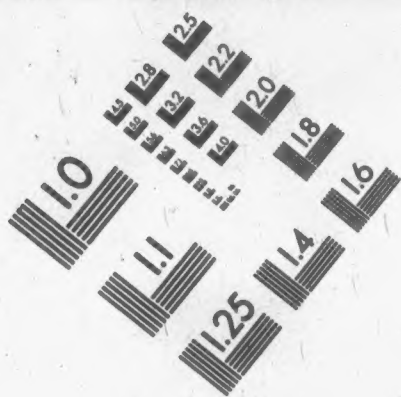
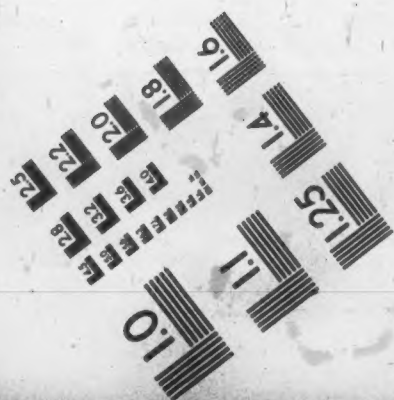


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**APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES
1898 - 1914**

ROLL 299

CHEROKKE FREEDMEN 1546 - 1569

**THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION**

WASHINGTON 1983

Cher Fr 1546

Cher Fr 1546

Cherokee Freedman 1546

Beld Thomas, 1841.

For 1841: 1841

Cherokee Freedman D 1097.

Bill Thompson

GRANTED

AS TO

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JAN 1 1907

1907

Chas. J. 1878

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Cher. Fr. 4228 Willie Rodgers

Complete Enroll. Record =

As to age " " =

Cher. Fr. C. C. #1546

1.00 age

" " " #D-1097

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Memo.

.50 age

Test 10/28/01 (8 Pages)

3.25 age

" 6/12/01

" 10/16/01 } (11 Pages)

4.50 —

" 10/26/01

" 5/19/02 (2 ")

.75 —

" 3/13/05 (5 ") (Ex.)

2.00 —

" 4/20/05

12/29/04 Suppl. proceedings - 1 Page (Ex.)

.50 —

3/20/05 Order closing case (Ex.)

.50 —

Printed notice to Freed. applicants + Requirings

.35 —

1/22/02 Receipt of Louis T. Brown

.25 —

Ref 6/04 " Roy T. Arbourn

.25 —

Power of Atty. Ex. by Neatie Rogers

.50 age

Letter in re ^{employment of} William T. Sidell as Atty.

.25 —

Letters to Neatie Rodgers 6/10/04, 12/2/04, 3/24/05, 6/28/05, 1/21/07

1.25

" " Wm T. Sidell ^{.25} 1/24/05, ^{.25} 28/05, ^{.25} 6/28/05, ^{.25} 8/28/05, ^{.25} 9/7/05, ^{.25} 1/21/07

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" " Cher. Atty. ^{.25} 4/10/04, ^{.25} 4/30/04, ^{.25} 6/28/05, ^{.25} 1/21/07

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Letters to Secty Int. 6/28/05, 18	.25 [¢] -
" " " " from Comr. S. Q. 8/4/05	.50 age
" from " " to Comr. S-T. 1/11/07	.25 -
" to Louis T. Brown 6/10/04	.25 -
Decision —————	.75 age
Roll —————	.25 age
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Case made

Done by
10/1/08

Cher Fr 1547

Cher Fr 1547

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6

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
ANDY WEBBER
as a Cherokee Freedman.

CHEROKEE D 959

Excerpted and added to present no more

and carried fragments of its aerodynamic nose finlets, breechings in the spar cases and that the structure is a unit for comparison to the five classified types he referred to with the "Class A" and "Class B" designations and an aerodynamic to the

10

He has been in a striking way.
I asked for enrollment as a Cherokee Freedman and he will therefore
be returned in 68; makes satisfactory proof as to residence. The Com-
missioner was advised and taken out of the Cherokee Nation and
as the same officer and witness told me in the office of Commissioner
Vada Nepper advised for himself; he is only identified

Q And have been there ever since? A Yes sir.
Yes sir.

And, except those in *Leptocryptus* with four families, V. minute beetles, Hymenoptera, and others.

some part of the way and stumbled on the morning.

Q And you wish you had I guess know that you really couldn't have done it, some of them

JUL 10 1961

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. July, 29th 1901.

In the matter of the application of Andy Webber for enrollment as a
Sherokee Freedman; he being sworn by Commissioner T. B. Needles, tes-
tified as follows:-

- Q What is your name? A. Andy Webber.
Q What is your age? A. 25. (Born 1876)
Q What is your post office address? A. Centralia.
Q In what district do you live? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who else do you want to have enrolled? A. Just myself.
Q How is your name on the roll of 1880? A. I don't know.
Q What is your father's name? A. Johnson Webber.
Q Is he living? A. No sir.
Q What is your mother's name? A. Frances Sanders.
Q Is she living? A. No sir.
Q Is your name on any of the rolls of the Cherokee Nation? A. Think
it is on the Wallace roll.
Q Have you any brothers or sisters? A. Yes sir one, Manda Webber.
Q Has she been enrolled? A. Yes sir under the name of Amanda Hill
at Chelsea.

Applicant not found on the 1880 or 1896 rolls.

- Q You say Amanda Hill is your sister? A. Yes sir.

Hern Clifton roll examined and the name of the applicant found as
follows: Page 167 No. 4151, Andy Webber, Cooweescoowee district

Wallace roll examined and the applicant found as follows:-
Page 152 No. 3150, Andy Webber, Cooweescoowee district.

- Q Where were you born? A. On Big creek, Cherokee Nation
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Are you married? A. No sir.
Q Have you been? A. Yes sir.
Q Have you any children? A. No sir.
Q Are you separated from your wife? A. She is dead.
Q Are you a full brother of Amanda Hill? A. Half brother.
Q Same mother or same father? A. Same father.
Q Were your father and mother slaves? A. Yes sir.
~~Q Did your father and mother belong to the same family?~~
Q Who did your father belong to? A. I don't know.
Q Who did your mother belong to? A. I don't know.

Sam Webber called and sworn as a witness for the applicant:-

- Q What is your name? A. Sam Webber.
Q What is your age? A. 50.
Q What is your post office address? A. Nowata.
Q Do you know the applicant? A. Yes sir
Q How long have you known him? A. Ever since he was born.
Q What was his father's name? A. Johnson Webber.
Q Was he a slave? A. Yes sir.
Q Who did he belong to? A. Ike Webber.
Q A Cherokee citizen? A. Yes sir.
Q Was he taken out of the Cherokee Nation during the war? A. Yes sir
Q Where to? A. Kansas.
Q When did he return? A. Late in the fall of '66
Q Did you know his mother? A. Yes sir.
Q Was she a slave? A. I don't know..

Q Do you know when Johnson Martin and Frances Sanders were married?
 A After the war.
 Q You don't know the citizenship of his wife? A. She returned in '88 with her father.
 Q But you don't know if she was a slave or not? A. No sir I don't of my own knowledge.
 Q Did they live together as man and wife until one of them died? A. Yes sir.
 Q And Andy is their child? A Yes sir.

By Hastings:-

Q He was married before? A. Yes sir to one of the Wards.
 Q Did his first wife die? A. Yes sir.
 Q And then he married this Sanders woman? A Yes sir.
 Q A Sister of Dan? A Yes sir.
 Q And that is the mother of this applicant? A Yes sir.

Dan Sanders called and sworn as a witness for the applicant:-

Q What is your name? A. Dan Sanders.
 Q What is your age? A. 58.
 Q What is your post office address? A. Centralia
 Q Are you a recognized Cherokee freedman? A. Yes sir.
 Q Do you know the applicant? A. Yes sir
 Q How long have you known him? A. All his life.
 Q Did you know his father? A. Yes sir his name was Johnson Webber.
 Q Was he a slave? A. Yes sir.
 Q Who did he belong to? A. Ake Webber.
 Q Was Johnson Webber taken out of the Cherokee Nation during the war?
 A Yes sir to Kansas.
 Q When did he return? A. In '88
 Q How do you know that? A. They were in our crowd.
 Q Do you know the mother of Andy Webber? A. Yes sir she was my sister, Frances.
 Q Was she a slave? A. Yes sir.
 Q Who did she belong to? A. Levi Keys.
 Q Was he a Cherokee citizen? A. Yes sir.
 Q Was she taken out of the Cherokee Nation during the war? A. Yes sir
 Q When did she return? A. With me in '88.
 Q Did she live in the Cherokee Nation from that time until her death?
 A Yes sir.
 Q Do you know that she and Johnson Webber were married? A. Yes sir, they lived right there by me, 3 or 4 miles from me.
 Q Did you see them married? A. No sir.
 Q While they were living together as man and wife was Andy born? A. Yes sir.
 Q And has he lived in the Cherokee Nation all his life? A. Yes sir

By Hastings:-

Q What time in the year did you first come back here? A. Come in January, the last of January or the first of February.
 Q You men folks had come twice? A. Yes sir.
 Q You built houses the first time? A. Yes sir.
 Q And then went after your families? A. Yes sir.
 Q What January was that you came with your families? A. '89.
 Q Did you come to Big creek? A. Yes sir.
 Q You were about the first people to locate on Big creek? A. Yes sir.

Q Who was with you? A I don't know just how many families, some of them came part of the way and stopped on the Neosho.

Q Name all that you came? A Peter Meigs, the Webber's, Andy Sanders Fannie Scales, Henry Scales; I disremember who else.

Q You reached there in January or February with your families? A. Yes sir.

Q And have been there ever since? A. Yes sir.

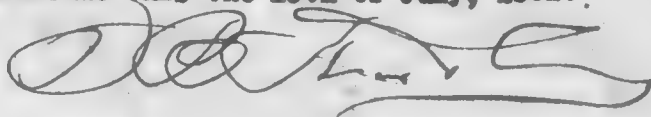
By Com'r Needles-

Andy Webber applies for himself; he is only identified on the Kern Bliften and Wallace rolls; he is the child of Johanson Webber and Frances Sanders, and makes satisfactory proof that both his parents were slaves and taken out of the Cherokee Nation and returned in '66; makes satisfactory proof as to residence. The Commission is satisfied that the said Andy Webber is entitled to be listed for enrollment as a Cherokee Freedman and he will therefore be so listed on a straight card.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 13th of July, 1901.

Chas von Weise



Commissioner.

A COPY OF THIS TESTIMONY IS ORDERED FILED WITH THE APPLICATION OF AMANDA HILL, C. F. D. #325.

12

89959

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 29 1901



ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date June 29, 1901
 Post Office Centerville, Ga.
 District Good

1. Name Andy Webber Age 26

Owner's name _____ Citizenship _____

Year R.C. 167 Page 167 No. 4131 District Good

Parents:

Father Johnson Webber-dead Citizenship Free

Mother Frances Sanders-dead Citizenship "

2. Name of wife _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

Names of Children:

No.	Year	Page	No.	Dist.
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				

Application made by Ms. Stenographer Max von Weise

On Wallace roll, Page 152 #3159 - Good

Ref 2625

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 22d 1901.

Ruben Sanders, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the of the applicant. (Examined by the Commission)

- Q What is your name? A. Ruben Sanders.
Q How old are you? A. I suppose I am about 50
Q What is your post office? A. Centralia.
Q How long have you lived in the Cherokee Nation? A. All my life
Q Were you a slave in the Cherokee Nation when the Civil war broke out? A. Yes sir.
Q. Who did you belong to? A. James Sanders.
Q. Were you taken to Kansas during the war? A. Yes sir.
Q You have a wife named Alice have you? A. Yes sir.
" How long have you and she been married? A About 30 years perhaps more

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant's son-in-law identified thereon as follows:

Page 175, No. 2657, Reuben Sanders, Cooweescoowee district.

- Q Did you ever have to carry the question of your citizenship before any court? A. Yes sir.
Q What court? A. The Chambers court
Q Is that the only one? A. Yes sir that is the only one; I was admitted by the Chambers Court.
Q Where was it sitting? A. At Tahlequah.
Q In what year was that? A. I cannot tell what year it was
Q Your citizenship had been disputed had it? A. Yes sir.
Q When was your right to citizenship first disputed? A. It was during the time that Thompson Oochelita was chief.
Q Was that before the 1880 roll was made? A. Yes sir.
Q Did the court decide in your favor? A. Yes sir.
Q Was there any dispute made then about your being put on the 1880 roll? A. No Sir.
Q Were you required to show a copy of the decision of the court in your favor when you went to enroll in 1880? A. No sir
Q Did they ask you any questions when you went to be enrolled in 1880? A No sir.
Q Where did they take your name? A I was in Gooseneck Bend, at the time.
Q Do you know the applicant Elizabeth Meigs? A Yes sir.
Q Your wife is her daughter? A Yes sir.

By W. W. Hastings:

- Q Peter Meigs' citizenship was disputed the same time yours was? A Yes sir.
Q Did he go before the court at the same time? A. No sir, I think not.
Q His wife's citizenship was also disputed? A. I judge so.
Q Did she go down before that court? A. Not to my knowledge
Q Did he go down to Tahlequah to the court before that time? A. Yes sir I think he went down to the Bob Daniels court, think he went with my father.
Q Was Bob Daniels Chief Justice of that court? A. Yes sir.
Q Just a few years after the war? A. Yes sir.
Q In '71 wasn't it? A. Yes sir.
Q Was any action taken in that court? A. I dont know.
Q You were not there yourself? A. No sir.

E. Meigs 2.

- Q You were not married then? A Nossir.
- Q How long long after you got back before you married?
- A Not very long after I got back.
- Q Did you marry on your way down here? A No sir.
- Q How long had you been here before you married? A I have been married twice.
- Q How long had you been here before you married the first time?
- A Not very long.
- Q As much as a year? A Maybe so.
- Q Is that your best judgement? A My best judgment is perhaps that it was that long.
- Q When were you married to your present wife? A Upwards of 30 years, or so.
- Q How long did you live with your first wife? A Not very long, she died.
- Q A Year? A Perhaps it was, maybe a little longer.
- Q Then you married your present wife? A Yes sir.
- Q When you came to the Cherokee Nation how did you come the first time? A In wagons.
- Q The first time? A Yes sir.
- Q Who came with you? A Several were on horse-back; it is beyond my knowledge how many there were.
- Q Tell all you can remember? A We made a trip in August and one in October and then we moved here in the Winter.
- Q Did you come in August? A Yes sir.
- Q Who came with you then? A Some of this family, Peter Meigs and got his place; the heads of these families.
- Q Who else came with you? A My brother Dan and the Whitmires.
- Q Which ones? A Several.
- Q Which ones? A Mose and Dennis, and the Webbers.
- Q Name them? A Old man Sam and younger Sam and little Aaron, and a man named Abe Thurman, and Abe Hair, and I dont know who else, I dont know who all come.
- Q Who come when you come in October? A I dont know who all come then, some of that same crowd and some more come in October.
- Q Do you remember any additional persons? A To the best of my knowledge the Smith family.
- Q What was his first name? A Old man Ceasar Smith.
- Q You come in both of the detachments yourself? A No sir.
- Q Which one did you come in? A I come in August.
- Q You didn't come in October then? A Yes sir, I come when we first come; we brought some of our farming utensils when we come in August and left the on the creek.
- Q On Big Creek? A yes sir.
- Q Where Mrs Meigs lives? A Yes sir.
- Q And you returned in October, how long did you stay in October?
- Q We all didn't return in October, we didn't all go back, some staid in August, some staid and some came back; some of us brought our things with us and some came to look out homes, we all come with the intention of making our homes here.
- Q When did you afterwards move here the last time? A In the winter of '66 is when we come down here the last time.
- Q What time in the winter? A Long in January.
- Q You mean in '67. A No in the winter of '66.
- Q If you came here in the August and October of '66 and then returned for your families and come back here in the following winter, in the following January or February, that would be in '67? A I dont understand you; we came here in the winter of 66 is what I said, in January after we had first been here in August and October, we came right to where Mrs. Meigs is living now

E. Meigs 3.

By the Commission:

Q You say you first came here in August of '66? A Yes sir.
Q That was your first coming was it? A Yes sir.

By Hastings:

Q When you moved here permanently, tell all that you possible can remember of who came with you in January or February following? A This family is one, her, the Meigs family, Peter Meigs, Elizabeth Meigs, Mary Meigs, George Meigs, Simon Meigs, Harriett Meigs, Perry Meigs, that is all that I can remember of that family.

Q I dont mean only of that family, there were other families were there not? A Old man Billie Forman.

Q Who else? A He had several children.

Q The heads of families I mean? A Fannie Banders; I dont recollect them all; I dont know as I can call the names of all of them.

Q Were any of the Webbers along? A Yes sir.

Q Old man Sam and young Sam? A Yes sir; I would not pretend to call them all over as I had forgotten them Webbers and so I cant remember for if I has forgotten them I dont think I can remember any of the others.

By the Commission:

Q Did old man Sam Webber come? A Yes sir.

Q Did his son Sam come? A Yes sir.

By W. W. Hastings:

Q Dont you remember any one else? A Rachel Webber.

Q Do you think of any one else? A No sir.

Q You know that it was a mooted question before the Kerns-Clifton Commission as to who came at this time and as to when you come? A I havent been interested as to any one except for myself.

Q You know that there is a question about who came dont you? A Yes sir I guess I do.

Q You say you came to Big Creek? A Yes sir.

Q Did you come by the way of Chetopa? A Yes sir I guess that we did, I dont know that they called it Chetopa then, there was a house or so there.

Q Did you cross the river there? A What river.

Q Neosho? A No sir.

Q You didn't cross at the Gilstrap ferry? A No sir we crossed 20 or 30 miles from there.

Q You came through what is Chetopa and came on west through the prairie? A We may have.

Q You were in wagons? A Yes sir.

Q Were there any persons living on any of that country from Chetopa west, out to Big Creek except your own people who had come in August or October before that? A I have no knowledge of any one living there before that.

Q Were there any houses there except those that your crowd built? A I dont know of any houses, but there were foundations for them on Big Creek.

Q Then the houses were not built before you moved there with your families? A Yes sir some were, there were logs on some up 8 or 10 logs high.

E. Reigs 4.

Q Then there were none really completed until you moved there with your families? A No sir.

Q Did you make a crop there the first year that you moved there? A Yes sir as near as we could with one horse plows and hoes.

Q Do you know Jim Martin? A Yes sir.

Q How far does he live from you now? A 4, 5 or 6 miles.

Q Was he living there when you people moved there? A No sir.

Q He had a brother names William Martin? A Yes sir.

Q Was he living out there then? A No sir.

Q There was an old man by the name of Carter living out there then, wasn't there? A No sir; there was an old man named Carter living 20 miles perhaps from there quite a while after we came there.

Q Was his name Dick Carter? A I think it was.

Q You say he lived some 20 miles from there? A Yes sir 20 miles below, on the Verdigris river. He come some time after.

Q Do you know if that ferry that you crossed the Neosho river was called Gilstrap ferry? A No sir we never crossed on Gillstrap ferry.

Q There were no farms made there when you passed through, no citizens had farms up there? A No sir none that I saw.

By the Commission:

Q You stated, I believe, that the first time that you come to the Cherokee Nation after the Civil war closed was in August of '66? A Yes sir.

Q For what purpose did you come back then? A To make it our home; the proclamation had told us to come home, that it was open for us to come.

Q You didn't bring your families with ^{you} then? A Only part of them and some things that we had.

Q Part came with their families and part came to prepare for their families? A Yes sir.

Q What men were with you on that first trip? A This family, the Meigs family, not all of this man's boys, but the old man Meigs, Peter Meigs.

Q You didn't bring your family with you at that time did you? A No sir.

Q Did Peter Meigs bring any of his family then? A No sir.

Q Did you go back to Kansas after that? A Yes sir.

Q When did you bring your family? A Our family came in October.

Q When did Peter Meigs go back to Kansas? A I think with my father.

Q You came yourself in August? A Yes sir with my father.

Q You went back to Kansas after that? A Yes sir my father went there and I went with him.

Q When did Peter Meigs go back? A He went with the crowd.

Q Did he go with you and your father? A Yes sir.

Q Then you returned to the Cherokee Nation again in October. A Yes sir.

Q Did your father come with you? A Yes sir.

Q Did all the members of your own family come with you? A No sir, not all of them come in October.

Q Where was Peter Meigs in October? A He come with us at each trip.

Q Did he go back to Kansas with you? A Yes sir.

Q And then you came back here to the Cherokee Nation in October?

E. Meigs 5.

A Yes sir.

Q Did Peter Meigs come back with you to the Cherokee Nation in October? A Yes sir.

Q That made the second time that Peter Meigs had been here?

A Yes sir.

Q Where was Peter Meigs in Christmas of '66, do you know? A No sir, I don't exactly know where he was in Christmas of '66.

Q When Peter Meigs got back to the Cherokee Nation with his family did he settle in the Cherokee Nation near your family?

A Yes sir.

Q How far apart? A Two or three hundred yards apart.

Q Did he then go back to Kansas for his family after he made that October trip with you? A No sir, he went back after something to eat.

Q You stated that he brought his family the last time in February, when did he go back after his family? A The third time he brought his family.

Q You staid here then? A Yes sir.

Q When did you come? A In the winter.

Q Was it in February? A Must have been in December.

Q What about that February trip you spoke of? A It was in the winter some time. Snow was on the ground.

Q Did your father come at that trip? A Yes sir.

Q Your mother? A Yes sir.

Q Peter Meigs? A Yes sir.

Q His wife? A Yes sir.

Q That was your third trip? A Yes sir.

Q Was that your last trip? A Yes sir.

Q When did your wife Alice come? A Come then.

Q On that third trip? A Yes sir.

Q You say Peter made all three trips with you? A Yes sir.

Q Every time you came he came? A Yes sir.

Q Every time you went back to Kansas he went back? A Yes sir, that is to the best of my knowledge.

Q Did he go there by himself? A No sir.

Q Do you remember distinctly that you came here in August the first time? A Yes sir.

Q Do you remember distinctly that Peter came with you in August and October? A Yes sir.

Q Do you remember distinctly that he came with his family when you made your third and last trip? A Yes sir.

Q With his family? A Yes sir.

By Com'r Breckinridge,-

The applicant states that she was a slave in the Cherokee Nation from the time the Cherokees moved to the Indian Territory in 1837 until she was liberated by the Civil war. She is identified on the Kerns-Clifton roll and on the Wallace roll, but not on the 1880 roll or upon the roll of 1896. The testimony indicated that her husband first returned to the Cherokee Nation after the war, coming from Kansas in August of 1866, that he came at that time to prepare for the bringing of his family back to the Cherokee Nation. He is now deceased, but he and the applicant were married at that time and had several children. The testimony further indicated that the applicant's husband made a trip back to Kansas in October. But not with a view of relinquishing his purpose to bring his family to the Cherokee Nation, but apparently to get provisions. It further appears that he returned to the Cherokee Nation with his wife and children in the following month of February. There is some conflict of testimony in regard to this matter, but so

E. Meigs 6.

far that is the weight of the testimony. It also appears that proceedings may have been had by some Cherokee Court, either a citizenship court or the Cherokee Supreme Court, prior to the date of the Chambers Court, affecting the citizenship of this applicant and her husband and all those who may claim through them. It will be necessary to make further inquiry upon this point, and if possible to get an official copy of the record. Under these conditions, the applicant will now be listed for enrollment on a doubtful board and the final decision of the Commission will be made known to her at her post office address.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas Vonweise.

Subscribed and sworn to before me this the 29th of May, 1901 at Chelsea, I. T.

T. B. Needles,

Commissioner.

Lola M. Champlin being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original testimony.

.....*Lola M. Champlin*.....

Subscribed and sworn to before me this the *25* day of *June* 1906.

.....*Chas E Webster*.....
Notary Public.

[Signature]

Before the Commission setting at Tahlequah to try
claims to Cherokee Citizenship..

The undersigned Claimant in the case of Lewis Whitmire
V.S. Cherokee Nation.

Respectfully presents the following statement of his
claim according to requirement of the Commission.

Claimant claims under classification 5th of Claimants
in the law creating this Commission that is as a Colored person
formerly a slave owned by a citizen and resident of the Nation
at the beginning of the late war freed by law and made a citizen
of this Nation by provision of the Treaty of 1866 For

Claimant was at the time and place above said owned
by George Whitmire a Cherokee citizen left the Country during
the war and returned in the summer of 1866 to select and prepare
a home for his family(they being then without one) and again the
following year prosecuting the work as his circumstances and
the condition of the Country at that time prevented and
leaving his family in the intervals of time when they could
subsist without discomfort and exposure and untill a removal
of them was practicable which removal of claimants finally was
accomplished to the point of the Nation settled by claimant
for theirs and his home in the Spring of 1867.

Claimants rights have been called in question by
competant authority and he therefore presents them to the
important examination of this Commission as authorized so to
do by law.

This June 26 1878.

Lewis Whitmire.

By W. P. Boudinot, Atty.

Before the Hon Commission setting at Tahlequah to
try rights to Cherokee Citizenships.

In the case of

Moses Whitmire.

V.S.

Cherokee Nation.

Claiming Cherokee Citizenship.

Claimant claims under the 5th specification of the
classes of Claimants to citizenship as found in the law creat-
ing this Commission to wit as a colored person formerly a
slave owned by one George Whitmire Cherokee citizen resident
in this Nation at the beginning of the late war and freed by
law and made a citizen by provision of the Treaty of 1866

Claimant respectfully refers to the statement made
by claimant Lewis Whitmire as embracing the facts which the
present claimant would submit to the Commission as the grounds
of his claim.

Respectfully submitted

Moses Whitmire.

June 26 1878. By W. P. Boudinot.

I hereby certify that the above and foregoing is a true and correct copy of the affidavits by Lewis and Moses Whitmire, which appear of record in docket B of the Chambers Court on Cherokee citizenship, pages 164, 165 and 166. Said docket being in my lawful custody.

Muskogee, Indian Territory.
July 11, 1906.



Commissioner.

Aaron Whitmire ()
 vs () Tahlequah
 Cherokee Nation ()

July 3rd 1878

Mike Fields a witness for claimant called & sworn--

I am -I think I am about 47 years old--I live in Illinois District C.N. Am a citizen of the Nation--I have been on the Doubtful roll--but had my rights proven up before the Supreme Court am a citizen under the treaty of 1866 I went north to the State of Kansas in '62 I returned in August 21st or 22nd 1866. I left my family in Fort Scott when I came--I came down to get me a claim I staid about three weeks that time and then returned to Fort Scott--After I returned to Fort Scott there were others who started down the Whitmires were of that number The claimant was one of them They came down along in Decr. 1866. They returned to Fort Scott before I left there- I left Kansas about the 2nd week In January 1867 and got to the crossing of the Neosho river about the last of Jan'y When I first came down there was about 15 in the party--They left there families in Kansas when they came down here. There was some of party came with the Whitmires who piloted the Whitmire party and my party were Sam Webber, Mike Daniels Sam Webber Jr. Aaron Webber Reubin Sanders, Tuck Sanders.

The Whitmire party proper were Aaron, Lewis, Mose, Dennis and Nelson Whitmire and others that I do not recollect The object of this party coming was for the purpose of erecting homes. When I moved with my family I stopped on Pryors Creek at Mrs Alberty's and remained about two weeks. The reason we left that part of the Country was because that part of the Country was to sparsly settled--and bare of subsistence--As I was coming down the first time we were overtaken by the Cherokee Delegation. There were some who came here were authorized by others to locate claims for them one was by McKoy requesting Abe Fields to locate for him. The original request filed.

----Cross Examined----

I cannot remember the date I arrived here the first time from Kansas. The claim I made we got 3 sets of house logs, hauled them and piled them up some of the men put up houses I did not put up a house. I started back to Kansas about the middle of September When I first left the Country it was in Feb'y 1862 I was a Slave before the war and was owned by Sam Taylor when the war broke out He was living on Greenleaf near Brushy Mountain on this side Arks river When the Whitmires returned to Ft. Scott I do not know when they left there to come to this Country as I left them there when I left--It was reported when they returned to the Nation that the Whitmire party had built houses but I do not know this myself as I was not along I only heard they had. The war closed in 1865 I think I did not know it myself but people told me who could read. I did not know myself that it was the month of Aug. when I came here first but I was told it was that time.

Re Direct.

It was the December following the time I first came down that the Whitmires came down first to select & improve claims.

his
 Nick X Fields
 mark

Aaron Whitmire (

vs (

August 1, 1878. (

Cherokee Nation (

Blueford Alberty Witness for Claimant called and sworn.

I reside in Cooweescoowee District C.N. I am a native Cherokee Citizen--I left the nation during the war I returned to the Nation on the West side of Grand River Cooweescoowee District on the 3rd of Sept. 1866. I had occasion some time in the last of October or the first of Nov. or probably it might have been as late as the middle of November to go out to the Virdigris I went out to the Salt Creek on the Virdigris. While out there I fell in with a party of seven or eight persons who were camped with others near Sam Couches I did not go to the camp. They were colored people I knew most all of them. Their names were old Sam Webber Aaron Whitmire and a younger brother and Lewis Whitmire. There was another person whom I was told was a Landrum. I do not recollect any of the others and cannot identify them. The Whitmires were Johnson and George Whitmire Aaron. Lewis and his mother belonged to George. In conversation with Sam Webber he asked me if I knew anything about the treaty and if Jim McDaniel had got home. I told him I had not seen the treaty but had heard rumors about it. He told me that they had come to pick themselves homes or make claims and that he was the leader of the company and the reason why Major Wright did not come was that he was an old man but that he had sent his son down to work for him and make him a claim--he then asked what chance there was to get provisions over on the river I told him there was none there but that there was a lot of condemned flour at Gibson and if they would go there they might get some--He also represented that they had come down to make claims for others who had remained in Kansas to build them houses & so they also stated that they were notified to come and that they had accordingly come to make claims for themselves and the others that they left behind in Kansas as near as I can recollect it was some time in October or November that I saw these parties. It was not very cold weather at the time I recollect as I camped out at night. Did not see any of the parties after this time May 1867 There was no provisions to be had in the country at that time provisions were very scarce. It was my understanding that they had come to prepare homes for themselves and families. They told me so at least--Major Wright belonged to Cornelius Wright before the war.

Cross Examined---

I heard after this this some of them went back to Kansas At the time I meet them I do not know whether their families were with them I did not suppose their families were with them I think I seen Dennis Whitmire with this party but am not certain of seeing Dennis or Nelson. I know their was four of the Whitmire boys. They were owned in the Nation & resided here up to the breaking out of the war.

B. W. Alberty-----

Aaron Whitmire)
vs)
Cherokee Nation)

I know Mellissa Ratliff. She was 12 or 13 years old at the close of the war. She was living with me then and still lives in my family. Jack Landrum was one of the band above referred to also Ransom Daniels I learned from our leaders Uncle Mike & Sam Webber that the Cherokee Delegates advised us to settle in a compact body on unoccupied lands. We crossed the Neosho in coming down at McClane's ferry in 1866. The Chief ferryman who crossed us was Bill Martin. While on Lightning Creek in 1866 I saw Mr. Alberty but had no conversation with him--but Sam Webber had in my presence--

----Cross Examined----

I am a Claimant before this Court for Citizenship I am a half brother of Aaron Whitmire Louis, Dennis and Nelson and also my brothers Mariah Whitmire is my sister--Major Wright is my step father. The names of the party that came with me to the Nation are as follows Mike Sanders, Sam Webber, Peter Meigs Bill Foreman, Tuck Sanders Ransom Daniels Sam Webber Jr. Louis Whitmire Nelson Whitmire Dennis Whitmire Aaron Whitmire is all I recollect now. Witness and my brothers were authorized to make claims for others still back in Kansas. Dennis made a claim for Major Wright I can't name any others Witness was a man of family in 1866 when we came on from Kansas My family was at Fort Scott Mellissa Ratliff Ed Wright and my wife and myself composed my family. Louis had no family Aaron & Nelson did. Major Man Nelson & Allen were Aarons children and his wife Sarah. They were left the wife and children in Fort Scott, when we came in 1866. Eliza Sanders Thos Sanders were Nelsons family and back at Fort Scott. We went back 1st January 1866 to Kansas--after coming to the Nation. When witness returned in 1867 to the Nation. Aaron Louis Nelson, Dennis, Ransom Daniels Tuck Sanders Peter Meigs and the families of those who had families all came as I did besides others not particularly remembered. This was the first time any of our families had been to the Nation at least mine Aarons' and Nelsons' The first time Mariah Whitmire was in the Nation after the war closed was after our party returned in families in 1867. The first time Major Wright returned was on our first trip in 1867. Mallissa Rateliff was owned by one Alec Rateliff at breaking out of war. She first came in March 1867 to the Nation along with me when I moved. Jack Landrum was along in 1866. He was a slave at the beginning of the war. I was present during the examination of Mr. Alberty as a witness in this case.

-----Re Direct-----

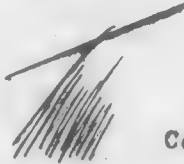
Mariah's family at close of the war was a separate family-- Harry Whitmire her son represented his mother on the first trip in 1866. Witness is about 53 yrs old Major Wright was an old man at the close of the war Louis Whitmire had been back to the Nation before 1866

Attest D. L. Nicholson
Clerk----

His
Mose X Whitmire.
mark

I hereby certify that the above and foregoing is a true and correct copy of affidavits by, Nick Fields, B.W. Alberty, and Mose Whitmire, which appear of record in docket "A" of the Chambers court on Cherokee citizenship, pages 239 to 247 inclusive, said docket being in my lawful custody.

Muskogee, Indian Territory.
July 11, 1906.



Commissioner.

and correct transcript of his stenographic notes therein.
 occurring in the above cases and that the foregoing is a full, true
 relation to the five civilized tribes he reported in this bill the pic-
 tures of von Meise, being sworn states that as stenographer to the com-

+ + + + +

office and as
 relation of the Commission will be made known to her by the
 relation of the Cherokee Freedmen on a doubtful card and the first
 her three children as herein enumerated will now be listed for en-
 Peter Ward who has this day been listed for enrollment. She with
 that Margarette Ward was her mother and that she was the daughter of
 and made a part of the record in this case will be filed here with
 body of the testimony taken in said case will be filed here with
 and was listed as a Cherokee Freedman on doubtful card No. 661; a
 is a niece of William Ward who has this day applied for enrollment
 number of the roll as indicated in the testimony; she swears that she
 she identified on the Kern Clifton roll according to the page and
 roll of 1880 of the same roll of 1881; she and her three children
 Ward before she married. She is not identified on the enumerated
 the child of Johnson Kipper and that her mother was named Margarette
 so-called: Della, Maudie and Sadie Hill; she swears that she is
 Amanda Hill applies for herself and three children;

By Com'r Needles:

Q You do know that go Jones v. Lee etc.
 Q She was, I am old as your Grand mother was and v. H. etc.
 which order she was that Jones v. No sir, I don't.
 Q You say that you both knew and together and yet you don't know how
 Q You don't know which sport anything go Jones v. No sir.

Amanda Hill

4.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T. June, 8th 1901.

In the matter of the application of Amanda Hill for the enrollment of herself and three children as Cherokee freedmen; she being sworn by Commissioner T. B. Needles, testified as follows:

Mallette & Smith attorneys for the applicants

W. W. Hastings attorney for the Cherokee Nation.

(Examined by Com'r Needles)

Q What is your name? A. Amanda Hill.
Q How old are you? A. 29. (Born 1912)
Q What is your post office address? A. Vinita.
Q In what district do you live? A. Cooweescoowee
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a ~~Cherokee~~ Freedman of
any other tribe or Nation? A. No sir.
Q Who do you desire to have enrolled besides yourself? A. Three children.
Q What are their names? A. Della Hill.
Q How old? A. 11 years.
Q Next one? A. Flossie.
Q How old? A. 9 years.
Q Next one? A. Sadie
Q How old? A. 8 years.
Q Are these children all living? A. Yes sir.
Q Are you married? A. Yes sir I have been.
Q What is your husband's name? A. George Hill.
Q Is he living? A. Yes sir.
Q Is he a citizen? A. Yes sir.
Q Are you and he separated? A. Yes sir.
Q Is your name on the 1880 roll? A. Yes sir if my father is
Q What is your father's name? A. Johnson Webber.
Q Is he living? A. No sir.
Q What is your mother's name? A. Marguerite Ward.
Q Is she living? A. No sir.
Q What was the name of Marguerite's father? A. Peter Ward.
Q Is he living? A. Yes sir.
Q What was her mother's name? A. Louisa Ward.
Q Did you ever live in Illinois district? A. No sir only in Coowee-
scoowee district.
Q Did you draw what is known as the Cherokee Strip money? A. Yes sir.
Q Your name is on the Kern Clifton roll? A. Yes sir.

✓ The 1880 and 1896 rolls examined and the applicants not found.

The Kern Clifton roll examined and the names of the applicants found thereon as follows:

Page 140 No. 5678, Amanda Hill, Cooweescoowee district

Page 149 No. 3679 Della Hill

Page 140 No. 3681 Saddle Hill

Page 149 No. 3680 Florence Hill

ABRAHAM WARD, called and sworn before Gen'r Needles, testified as

follows on the part of the applicant:

By Mr. Mallette:

- Q What is your name? A. Abraham Ward.
Q Are you the same Abraham Ward who applied to be enrolled a short time ago? A. Yes sir.
Q Your father is Peter Ward, the same one who has already applied? A. Yes sir.
Q Do you know this applicant? A. Yes sir.
Q What relation are you to him? A. None sir.
Q Do you know her mother's name? A. Marguerite Webber.
Q Who was she? A. A sister of mine and named Ward before she married.
Q When was she born? A. Before the war.
Q Was she a slave? A. Yes sir.
Q Who owned her? A. Jim and Eliza Ward.
Q Who did she return to the Cherokee Nation with after the war? A. With me and Johnson Webber and my father.
Q How long have you known her? A. Ever since her birth.
Q Where does she live? A. Big creek, Cherokee Nation.
Q Did her mother live on Big Creek until she died? A. Yes sir.
Q This applicant, as I understand it, is a daughter of your dead sister Marguerite Ward? A. Yes sir.
Q And she had married one Johnson Webber? A. Yes sir.

By W. W. Hastings:

- Q Where did she marry Johnson Webber? A. In Kansas.
Q Was that her first husband? A. Yes sir.
Q Was she ever married before? A. Not as I know of.
Q Is this their oldest child? A. No sir one that is dead is older.
Q How much older is the one that died than this one? A. I don't know.
Q Is Johnson Webber dead? A. Yes sir.
Q How long did he live after he come down her? A. He has been dead about 16 years.
Q What became of him after he come here? A. Lived on the creek there.
Q Did he ever go back to Kansas? A. Not as I know of.
Q You would know if he had wouldn't you? A. I don't know of him going back.
Q Staid right there with your sister? A. Yes sir.
Q How long has your sister been dead? A. 20 or 25 years.
Q This girl was small when she died? A. Yes sir.
Q Did this applicant's mother come back with you? A. Yes sir.
Q And her mother and father? A. Yes sir.

By Mallette:

- Q Johnson Webber was the husband of this child's mother? A. Yes sir.
Q And she was your sister? A. Yes sir.
Q He returned with his wife, the mother of this girl—they returned together to this country after the war with you and your family? A. Yes sir.
Q Was he a brother of Sam Webber? A. Yes sir.
Q Where had he lived before the war? A. I don't know, I wasn't acquainted with him then.

SAM WEBBER called and sworn by Gen'r Needles, testified as follows for the applicant:

By Mr. Mollet:

Q What is your name? A. Sam Webber.

Q What is your age? A. 58.

Q Are you on the authenticated roll of freedmen citizens of the Cherokee Nation? A. Yes sir.

Q Did you have a brother named Johnson Webb? A. Yes sir.

Q Was he the Johnson Webber who was the husband of Marguerite Ward?

A Yes sir.

Q Was he a slave in the Cherokee Nation? A. Yes s'r.

Q Who was his master? A. ~~His master was the master and chief of the~~

Q He had a mistress, Amy Webber, same one that owned me.

Q Was she a Cherokee citizen? A. Yes sir.

By W. W. Hastings:

Q When did Johnson Webber come back to the Cherokee Nation after the war? A. With the Ward family.

Q Did he come with Abraham Ward? A. Yes sir.

Q You testified in his case this morning didn't you? A. Yes sir.

Q Where did he marry Marguerite Ward? A. In Kansas.

Q Did she come with him down here? A Yes sir.

Q Did he have any children by her? A. Two.

Q Is this one here the oldest? A. The youngest.

Q How much older was the other one than this one? A I cant tell .

APPLICANT re-called and examined by W. W. Hastings:

Q How much older was your sister than you? A I dont know.

Q Didn't your folks ever tell you? A No sir.

SAM WEBBER re-called and examined by W. V. Hastings:

Q How much older was the other one than this one? A. I dont know.

Q You know 166 dont you? A. Yes sir and a whole lot more but I cant keep the ages of these children.

By the Commission:

Q They wasn't your children? A. No sir.

Q You didn't keep a record of the ages of your ~~children~~ brothers
children did you? A. No sir I didn't.

By Hastings—

Q These were your brother's children though? A. Yes sir.

By the Commission: (of applicant)

Q Did you and your sister grow up together? A. Yes sir.

Q Didn't you hear any of your family say how much older she was than you? A. ~~No~~ ~~since~~ I don't know.

Q Was she 20 years older than you? A. I dont know.

Q Was she 50 years older than you? A. I don't know that? A

Q Was she a hundred years older than you? A. I don't know that.

Amanda Hill 4.

Q You dont know much about anything do you? A. No sir.
Q You say that you both grew up together and yet you dont know how much older she was than you? A. No sir I dont.
Q She wasn't as old as your grand mother was she? A. No sir.
Q You do know that do you? A. Yes sir.

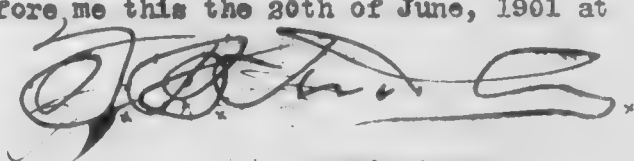
By Com'r Needles:

Amanda Hill applies for herself and three children, to-wit: Della, Flossie and Sadie Hill; she avers that she is the child of Johnson Webber and that her mother was named Marguerite Ward before she married. She is not identified on the authenticated roll of 1880 or the census roll of 1896; she and her three children are identified on the Kern Clifton roll according to the page and number of the roll as indicated in the testimony; she avers that she is a niece of Abraham Ward who has this day applies for enrollment and was listed as a Cherokee Freedman on doubtful card No. 607; a copy of the testimony taken in said case will be filed here with and made a part of the record in the present application. She avers that Marguerite Ward was her mother and that she was the daughter of Peter Ward who has this day been listed for enrollment. She with her three children as herein enumerated will now be listed for enrollment as Cherokee freedmen on a doubtful card and the final decision of the Commission will be made known to her at her post office address

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 20th of June, 1901 at Nowata, I. T.

Commissioner


Commissioner.

Commissioner.

Sworn to and subscribed before me this 1st of August, 1867.

and that the same is a true and correct copy from the original.
The Commission to the five qualified judges he copied the foregoing.
Brice C. Jones, being duly sworn, says that he attended before me
on the 1st of August, 1867.

Sworn to and subscribed before me this 1st of August, 1867.

This and foregoing testimony of the five qualified judges, and the foregoing
Commission to the five qualified judges he copied the foregoing.
Brice C. Jones, being duly sworn, says that he attended before me
on the 1st of August, 1867.

Sworn to and subscribed before me this 1st of August, 1867.
The Commission to the five qualified judges he copied the foregoing.
Brice C. Jones, being duly sworn, says that he attended before me
on the 1st of August, 1867.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE QUALIFIED JUDGES
AUG 12 1867

Amanda Will 67 10625

Mellotte & Smith, for applicants
W. W. Hastings for the Cherokee Nation -

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 8th, 1903.

In the matter of the application of Abraham Ward for the enrollment of himself and one child as Cherokee freedmen; he being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Abraham Ward.
Q How old are you? A 55.
Q What is your postoffice address? A Wymer.
Q In what district do you live? A Coowasee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you desire to have enrolled besides yourself? A One boy Artes Ward.
Q How old is he? A 15 years old.
Q Are you a recognized Cherokee freedman? A In part I am.
Q Is your name on the 1880 roll? A No sir.
Q Is it on any of the rolls? A The Kern Clifton and on the Wallace roll.

✓ The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found thereon.

✓ The 1890 census roll of the Cherokee Nation examined and the name of the applicants not found thereon.

The Kern Clifton roll examined and the names of the applicants found thereon as follows:

Page 125, No. 3117, Abraham Ward, Coowasee district.

Page 125, No. 3124, Artes Ward, Coowasee district.

The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:

Page 152, No. 3162, Abraham Ward, Coowasee district.

Q Where were you born? A On Batles' Prairie.
Q In the Cherokee Nation? A Yes sir.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A Jim and Ellen Ward.
Q Were they Cherokee citizens? A Yes sir.
Q Were you taken out of the Cherokee Nation during the war? A No, sir, after I was liberated I went into the Government service.
Q Where did you go? A In '62 I went into the Union Army.
Q What regiment? A Blount's Division.
Q Where did you enlist? A I didn't enlist, I was working for the officers, body servant.
Q Where did you go? A Went to Camp Hill, Arkansas, waited on the officers and after that I drove a Government team.
Q When did you return to the Cherokee Nation? A In the spring of '66.
Q Have you lived here continuously ever since? A Yes sir.
Q Are you married? A Yes sir but my wife is dead.
Q Who was the mother of Artes? A Caroline.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A The Adairs.
Q Is her name on the 1880 roll? A No sir.
Q Was her name Caroline Adair before you married her? A Yes sir.
Q When did you marry her? A In '65.
Q Where? A Up in Kansas.
Q Did you return with her? A Yes sir, I come on down and then went back in the fall and brought her.
Q How much of a family did you have then? A None, all of my children were born here.

Q Did you live with Caroline until her death? A Yes sir.

Q Who were your owners? A Jim and Louisa Ward.

Q And they were Cherokee citizens were they? A Yes sir.

By Mr. Mellette:

Q Have you a place on the Public Domain of the Cherokee Nation?

A Yes sir.

Q How long have you owned it? A Since '66.

By Mr. W. W. Hastings: The above question as to owning a place is objected to by the representatives for the Cherokee Nation because it does not tend to prove the issue.

By Mr. Mellette:

Q You have never lived out of the Cherokee Nation since your return in '66? A No sir.

By Mr. Hastings:

Q Your father was Peter Ward? A Yes sir.

Q Are you his son? A Yes sir.

Q Are you his oldest son? A Yes sir.

Q You went to Mound City Kansas didn't you? A Yes sir after I quit driving Government team.

Q That is in Indian County? A Yes sir.

Q Do you know Cusky Brown? A Yes sir.

Q Did you see him in Kansas? A Yes sir.

Q What year did you see him there? A I think it was in '67.

Q You knew Joe Ward? A Yes sir we was raised together.

Q He was your young master? A Yes sir.

Q You saw him in Kansas too didn't you? A Yes sir in '66 when I was driving a Government team he come to our house.

Q Was that after or before the war closed? A Same year that the war closed, I saw him in Mound City and he went up to my father's house. I was living with my father.

Q You were not married then? A No sir, married directly after.

Q What year did you marry? A In the fall of '66, after he was up there.

Q How old is your oldest child? A He is 32 I think it is according to my judgment.

Q What time in the year was that oldest child born? A In September

Q Was he 32 last September or this coming September? A This coming September.

Q That is your best judgment? A Yes, sir.

Q Did you come back with your father, Peter Ward? A No sir not the first time I come.

Q Didn't you testify before that you come back with your father?

A No sir, I went to Fort Gibson the first time and the next time I come down with him.

Q How long after that did you come down again with your father?

A The same year, I come to Fort Gibson in the spring and come back to Kansas and back here again in the fall, with my father.

Q You had married then? A Yes sir.

Q You come down the last time in November? A Yes sir.

Q Who came with you that first time? A Jim Mosley or Rogers.

Q Come through on horse back? A Yes sir.

Q How long did you stay here then? A Staid a considerable time,

had kin folks there.

Q Who? A Burrey Mays and Mr. Mays.

Q Well how long did you stay there? A About a month or so.

Q How long after that did you come with your father? A In November

Q You located permanently that last time? A Yes sir, but I was on

Big Creek when I went back from Fort Gibson to Kansas the first time.

Q How far did you locate from Snow Creek? A 6, 10 or 12 miles.

-5-

Q What direction from the mouth of Snow Creek? A Northeast.

Q How far from the Kansas line? A About 8 miles south.

Q Who was living there in that country then when you went through from Fort Gibson to Kansas? A Sam Webber, George Meigs, Peter Meigs, old man Sam Webber.

Q Had they houses there then? A Yes sir.

Q Had they made a crop of corn that year? A Not much, there was a drought there, that was when I went up the first time.

Q What time was it when you went up? A In August.

Q Did Sam and his daddy have a crop of corn in? A Not much, sort of a patch.

Q That was in 68? A No sir.

Q Your young master Joe Ward testified that he saw you there in '67?

A I was traveling up there through that country and saw him the year of the war closing, because he went to my house with me.

Q Did you ever see Will and John Ward or any of your young masters since the war? A Yes sir.

Q Where? A On Big Creek.

Q When? A I had been there about two years.

Q Did you locate right on the place where you now live? A Yes sir.

Q And have lived there ever since? A Yes sir.

Q Is your father living? A Yes sir.

Q He lived there with you? A Yes sir.

Q What Cherokees are living along there? A Albert Morris.

Q Was he living there when you come? A No sir.

Q How far was Jim Martin living from there when you come there?

A No sir, he was not living there and the Delawares were not living there either then.

Q You anticipated that question didn't you? A I know they was not living there then.

Q What made you answer that question before I had asked it? A I heard some of the people saying that they was up there then and I am telling you right. I thought it was coming and I was going to tell you about it.

Q Where did you get anything to eat that fall? Get it from these Webbers and Sanders? A We brought some along with us.

Q Do you know Jess Brown and Tecumseh? A Yes sir.

Q They were up in Kansas looking after some pension matters weren't they? A I don't know.

Q Was Sam Webber living in a house up there? A Yes sir.

Q Who did you stay all night with up there? A With Peter Meigs.

Q That was in August? A Yes sir.

Q 1866? A Yes sir, latter part of August.

Q Did old Peter Meigs have in a crop there then? A Yes sir a little one.

By the Commission:

Q Why is your name not on the 1880 roll? A I don't know, the census takers didn't come there.

Q Did you ever apply to have your name enrolled? A No sir; the reason I didn't was because several men went down there and tried it and come back and said that it was not necessary to go down there as the was not enrolling us people.

L. D. DANIELS, called and sworn as a witness before Com'r T. B. Needles, testified as follows for the applicant:

By Com'r Needles:

Q What is your name? A L. D. Daniels.

Q What is your age? A 55.

Q What is your postoffice address? A Claremore.
 Q Are you a recognized Freedman of the Cherokee Nation? A Yes sir.
 Q Do you know the applicant? A Yes sir.
 Q How long have you known him? A I got acquainted with him in the fall of '68.
 Q Do you know if he was a slave? A No sir I dont.
 Q Where did you see him in the fall of '68? A At Fort Gibson.
 Q Have you known him ever since that time? A I saw him after I moved in here to Coconawaw.
 Q How did you happen to see him in Fort Gibson in '68? A He come to Amanda and Mike Adairs and was going to take them away and I asked him what he was going to do with them, and he said he was going to take them to his people.
 Q You had never seen him before that? A No sir, he was a stranger to me then.

By W. W. Hastings:

Q He was a stranger to you in '68? A Yes sir.
 Q You had never seen him before that? A No sir.
 Q You didn't witness for him before the Kera Clifton Court did you?
 A No sir.
 Q Do you know how long he staid in Fort Gibson that time? A No sir I dont.
 Q What time did you see him there? A In the fall.
 Q What time in the fall? A First part of September or the last part of August, somewhere along there.

By the Commission:

Q How did you know it was in '68? A Because I was living right there and notices all the girls that come in there.
 Q You was a young man then? A Yes sir.
 Q You was a government officer also wasn't you? A Yes sir.

SAM WEBBER, called and sworn as a witness by Com'r Needles, testified as follows:

Q What is your name? A Sam Webber.
 Q How old are you? A 58.
 Q What is your postoffice address? A Nowata.
 Q Are you a recognized Cherokee Freedman? A Yes sir.
 Q Do you know the applicant? A Yes sir.
 Q How long have you known him? A Got acquainted with him in Kansas during the war.
 Q Do you know when he returned to the Cherokee Nation? A In the fall of '68 was when I first remember seeing him in the Nation.
 Q Where did you see him? A On Big Creek.
 Q He came up there to live? A Yes sir.
 Q Did he have his family there with him? A Yes sir He had his family with him.
 Q Did you know if he was a slave in the Cherokee Nation before the war? A Only what he told me.
 Q Have you known him ever since? A Yes sir.
 Q Has he lived in the Cherokee Nation continuously ever since?
 A Yes sir.

By W. W. Hastings:

Q He settled there right in the fall of '68? A Yes sir, frost was falling.
 Q How long before had you and your family been there? A Not long, I moved down there a short time before that.
 Q About how long before that? A I cant just tell, not a great while.
 Q A month? A, Must have been a month, I don't remember exactly.
 Q Are you prepared to swear positively that all these people came

down there 35 years ago, in '68? A Yes sir all those I am acquainted with that come.

Q How far did this man live from you then? A 4 miles.

Q He has lived there ever since? A Yes sir.

Q You know he was living there in '67? A Yes sir.

Q You know he was living there in '68? A Yes sir.

Q You are willing to swear that he has continued to live there continuously ever since '68? A Yes sir.

Q Did you know his father? A Yes sir.

Q What is his name? A Peter Ward.

Q He come with his father did he? A Yes sir they came together.

Q And settled in the same neighborhood? A Yes sir.

Q What place in Kansas did you come from? A Linn County, same place they come from.

Q Mound City? A Yes sir.

Q Did you know them there? A Yes sir.

Q Did you go back up there directly after you come down here and settled? A No sir.

Q Did you go back there in '67 or '68? A No sir.

Q Was this man married when he come down there? A Yes sir.

Q Was his wife with him? A Yes sir.

Q How many children did he have then? A I can't tell you how many he had, but he must have had as many as two or three. I can't tell.

Q Did he have any? A If he did, I don't know it.

Q You know he was married though? A Yes sir.

Q Did he live with his father when they first came there? A They both came there close together.

Q Did they make separate homes? A Yes sir.

Q Had you made a crop there when he come? A No sir.

Q None of you had crops in then did you? A No sir, couldn't, hadn't been there long enough.

Q About how far did they locate from the Kansas line? A I don't hardly know.

APPLICANT recalled and examined by W. W. Hastings:

Q You saw Will and John Ward directly after Will got into trouble did you? A Yes sir I saw Will, he come to my house.

Q You had a talk with him? A Yes sir.

Q You told him where you had been? A No sir, not exactly as to where I had been.

Q Talked about old slavery times? A Yes sir.

Q Told him when you had come back? A No sir that question was not asked.

Continuation of the above application reported by B. C. Jones.

Chas. von Weise, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise.

Subscribed and sworn to before me this the 18th of June, 1901, at Nowata, I.T.,

Signed, T. B. Needles,
Commissioner.

(Continued from testimony taken by stenographer Chas. von Weise, June 8, 1901.)

GEORGE MILLS, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Meigs.

Q What is your age? A I don't know exactly, about sixty some odd.

Q What is your postoffice? A Wimer.

Q Are you a recognized Cherokee Freedman? A Yes sir.

Q Your name on the 1880 roll? A No, sir.

Q You made application to be enrolled? A Done been enrolled, all excepting two witnesses.

Q Do you know Abram Ward, the applicant here? A Yes, sir.

Q How long have you known him? A Ever since he moved on Big Creek.

Q Do you know whether he was a slave before the war? A Yes, sir, he was a slave.

Q Who did he belong to? A Belonged to a man they called George Ward.

Q Do you know whether he went out of the Cherokee Nation during the war or not? A Yes, sir.

Q Where did he go? A Went up to Fort Scott.

Q Did you see him? A No, sir, I just met him up there.

Q Do you know when Abram Ward, the applicant, returned to the Cherokee Nation? A Why I don't know exactly.

Q When was the first time you saw him after the war? A Why it was in the fall of '66.

Q Where did you see him then? A On Big Creek.

Q Was he living there? A Well, he has been there ever since.

Q Was he living there then? A When I saw him, why he just came.

Q Did he have a family with him when he came? A Yes, sir.

Q How many children did he have? A Well, I can't hardly tell you.

Q Have his wife? A Yes, sir.

Q Was he camping there, or had he built a house? A Well, he came in and camped, and built a house.

Q Have you known him since that time? A Yes, sir.

Q Has he always lived in the Cherokee Nation since '66, to your knowledge? A Yes, sir.

Q You were taken out during the war, were you? A Yes, sir.

Q Did you return with Abram Ward? A I returned just a little before he did.

Q You saw him here in '66 in the fall? A Yes, sir.

Q Mr. Hastings: How long had you been back when you saw Abe?

A I don't know exactly.

Q A year or two? A I hadn't been back a year, no, sir.

Q Well, had you put in a crop that year you came back? A No, sir, I hadn't then.

Q Did you have any corn in when he came? A No, sir.

Q Any potatoes in? A I had a patch started to clear out.

Q But you had no corn on it? A No, sir.

Q You didn't plant any that year? A We didn't plant any till it got time to plant it.

Q But had you planted any when this man came down here? A No, sir.

Q George, you don't know anything about dates, years? A No, sir, I don't.

Q You don't know one year from another? A No, sir, I don't know, of course I am not got no education.

Q Where did you live before the war? A Well, now I lived in the Cherokee Nation before the war.

Q What place in the Cherokee Nation? A Well, as near as I can tell you to tell you the truth, I lived east of a little town they called Dutch town on a big hill: west of it.

Q Who did you belong to? A Belonged to a man they called Reuben

Daniels and Lila Daniels.

Q How far was that from Beattie's Prairie? A It wasn't a great ways, I don't know.

Q What direction was Beattie's Prairie ~~xxxxxxxxxxxx~~ from where you lived? A To my judgment, it must have been kinder north, & nearabout north.

Q You were up there before the war, were you, Beattie's Prairie?

A No, sir, I don't know that I have ever been to the place.

Q When did you first see Aba? A The first time I saw Aba is recollect him was at Fort Scott.

Q During the war? A Yes, sir.

Q Then you never saw him before the war? A No, sir.

Q You don't know of your own personal knowledge who he belonged to?

A Of course I don't, but I know what he says, who he belonged to.

Q You swore a while ago he belonged to George Ward? A That is what I told you his owner was.

Q You don't know that? A No, sir.

Q You are the son of Peter Meigs? A Yes, sir.

Q Peter Meigs went down before the court to have himself and family enrolled? A Yes, sir.

Q Did you go along with him? A No, sir.

Q He is dead? A Yes, sir.

Q He didn't get enrolled? A No, sir.

Q He has been refused by the Cherokee Nation? A Yes, sir.

Q You know this man, the applicant, has been refused all the time?

A Yes, sir.

Q To the best of your judgment, how many children did he have when you first saw him there, after the war? A I can't hardly tell you; I know all his children; he had one to my judgment.

Q But you don't know how many more? A No, sir.

Q What was this child's name? A Named Lon.

Q He stayed right near you? A Yes, sir.

Q He came down with his father, didn't he, Peter Ward? A Yes, sir.

Q They all came down together and stayed up there? A Yes, sir.

Q I want to know if you are positive about the year that they came in? A Yes, sir.

Q They have lived there continuously ever since that year they came? A Yes, sir, ever since.

Q They never went back to Kansas and left up there? A I believe the old man went back once or twice for grub.

Q Not up there to live? A No, they never went up there to live.

Q Are you willing to swear positively about the year they came?

A Yes, sir.

Q That was in 1866, was it? A Yes, sir, '66 we came.

Q Was it 1866? A I can't say whether it was eighteen hundred or not.

Q You are not positive about that? A I can't tell you anything about the dates, and I didn't suppose I would have to know anything about '66 like I do, but my daddy was rushing to get down there to get a place for he said for his children.

Commissioner: Your daddy knew he had to be there in '66 did he?

A Yes, sir.

Commissioner: Abram Ward applies for the enrollment of himself and his son Artes. He is not identified upon the authenticated roll of 1880 or the census roll of 1885 from an examination of the same, but he is identified upon the Kern-Glifton and the Wallace rolls. His child Artes is also identified upon the Kern-Glifton roll. He avers that he was married to one Caroline Adair, who is now deceased, and makes satisfactory proof as to said marriage. Now Abram Ward and his child Artes will be listed for enrollment as Cherokee

xx Freedom on a doubtful case, waiting further consideration by the Commission. He will be duly notified by mail at his post office address by the decision of the Commission, when arrived at.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this the 19th of June, 1901.

Signed, T. B. Needles,
Commissioner.

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Summary

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of August, 1901.



Commissioner.

File with Cherokee Freedman D-625, Amanda Hill

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 5, 1901.

In the matter of the application of Abraham Ward et al. for
enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

Mallette & Smith, attorneys for the applicants;
W. F. Hastings, of counsel for Cherokee Nation.

G. W. KINGSBURY, being duly sworn by Commissioner Needles, tes-
tified as follows:

Mr. Hastings: What is your name? A G. W. Kingsbury.

Q What is your age, Mr. Kingsbury? A I am 47 years this fall.

Q What is your postoffice address? A Mound City, Lynn County,
Kansas.

Q How long have you lived in and about Mound City? A Ever since
the 18th day of August, 1861.

Q Were you living there in 1865; you have lived there ever since,
you say? A Yes, sir, lived there continuously ever since, made that
my home.

Q What was your father's name? A My grandfather's name was Durbin.

Q Did you know a colored man in Mound City, Kansas, by the name of
Peter Ward? A There was one lived there, yes, sir, by that name.

Q Did you know any of his children? A Yes, sir.

Q Name some of them? A There was Abraham, Berry, Mark, Miner,
Squire, Eliza, Ben, Dave, Clint, George; that is all I can remember
of them.

Q When did you first become acquainted with this family of wards?
A In the fall of '65.

Q Where were they then? A They lived on a place west of ours.

Q How far was that from Mound City, Kansas? A That was three
miles; it is three miles to my place and their place joined right
west of ours.

Q Joined your place on the west? A Yes, sir, their place cornered
with ours on the northwest.

Q How long did they continue to live from '65 in that immediate
vicinity about Mound City? A From '65, in the fall of '65 I think,
and then in the next spring they moved, taken a lease on the old
gentleman's place, my grandfather's.

Q What was his name? A Amos Durbin.

Q That was in the spring of '66? A In the spring of '66 they
moved onto our place.

Q When you say our place you mean your grandfather's? A Yes, sir,
I mean the Durbin farm now, it is where I live now.

Q Now how long did they continue to live on that farm? A They
took a lease on our place for four years, to clear up some timber
lands, and they lived there three years and in the fall of '69 the
old gentleman left, that is, he said he was going down to this country,
that was in the fall of '69, and the remaining year of the lease, he
wanted the old gentleman, that is Mr. Durbin, to let one of his boys
live there the year of the lease out, and Mr. Durbin told him that he
was welcome to stay on the place till his time was out, but he didn't
want him to sub-rent to anybody, and Peter Ward said all right.

Q They gave up the last year? A Yes, sir, they gave up the last
year.

Q And they lived there for three years from '66, as I understand
it? A From '66 to the fall of '69.

Q Was there a barn built on the Durbin farm in the meantime? A
There was a stone barn built there in '68.

Q How do you know it was built there in '68: have you anything else besides your own memory? A Yes, sir, the boss mechanic, A. J. Ranney, on finishing the work he placed a rock up over the door with his initials and the year it was erected in.

Q Do you know whether these people were there after the building of this year or not, living there? A Yes, sir.

Mr. Mellette: I think that is a very leading remark.

Q Well now how do you know it? A Mr. Ward was farming our place besides this land, he stored some wheat on our place and he stored some wheat and in the fall of '69 he left some wheat in our barn and the next spring he came and got it.

Q You know where he was the next spring, where he was living? A He said he had moved down to this country, that is what he said and we supposed he had.

Q Have you seen him since? A I have not; one of his boys was back there since, Abe, but what year I don't remember.

Q What is your occupation? A I am farming and stock raising.

Q You have mentioned a number of Peter Ward's family; did they all leave when Ward left, or about that time? A About that time; I can't say for sure whether the older boys left a short time before or a short time after, but I remember Uncle Peter going away at this time that I spoke of.

Q You remember Abraham Ward living there? A Yes, sir, he lived there every time when he was there, the boys were all at home on the place there.

Q Is your grandfather, Durbin I believe, is he alive? A Yes, sir, he is living, he is quite an old man, he is 88 years old.

Mr. Mellette: I didn't get your name? A C. W. Kingsbury.

Q What is your postoffice? A Mound City, Kansas.

Q How old are you? A I am 47 this fall.

Q How old were you in '66? A In '66 I was 12 years old, I was born in '54.

Q Did you, as a 12 year old boy, pay much attention to dates?

A What do you mean, in what way do you mean?

Q Well I mean exactly what I said? A Well this time that I spoke of, of knowing when Uncle Peter took this lease on our place; this place that he moved onto our place from belonged, when he took the lease on that, to a man named Corbin, and he built a house.

Q Now are you going to answer my question? A Yes, sir, what is it?

Mr. Hastings: If you want to tell him how you get at this date, go on and tell him.

Mr. Mellette: I asked you if, as a 12 year old boy, you paid very much attention to dates? A I remember that distinctly.

Q When were you first asked to appear as a witness in this case?

A I think there was a gentleman at my house twice, the last time I don't remember when, but I think it was along the last days of last month.

Q How long was it after Peter Ward and his family left Kansas, that that man came to you and asked you about these facts? A It was from '69 until 1901.

Q How long is that? A From '69 would be 32 years, if I am not mistaken.

Q Do you remember back then 32 years to the time when you were a 12 year old boy and remember the years that these colored people leased the land? A I do.

Q And when they moved off? A Yes, sir.

Q Where were you living at that time? A I must have lived on the place, I was living the same place I live now, three miles west of Mound City, in Lynn County, Kansas.

Q Is that the only date you can remember about things that took place in those days? A No, sir.

Q You have lived in one spot all the time? A I have lived continuously, that has been my home on that farm since '61.

Q What impresses the fact on your mind as to when them people lived on that land? A As I said, Mr. Ward was living on a farm that

belonged to Corbin and he had put up a house there, a log house, he wanted to move that house over onto the old gentleman, my grandfather, and my grandfather objected and told him he had better go down in our timber and cut logs and build a house.

Q You know of that? A Yes, sir.

Q You remember that conversation 32 years ago? A Yes, sir.

Q You are giving the exact conversation that you heard 32 years ago?

A I remember the contract and the conversation.

Q Were you a business man at that time? A Well, I wasn't, I don't suppose, considered so legally.

Q Did you conduct business at the age of 12? A In the way of leasing land I didn't, and Mr. Alexander came out from Indiana in the fall of '65 and bought the land then, this land that this gentleman, Mr. Ward, lived on, and then in '66 P. D. Alexander moved on the farm and lived there until the time of his death.

Q Now is it not a fact that Peter Ward and his family left your grandfather's place in '66 because they understood they could get a home here by coming in 1868, that they departed at that time? A I don't think it is.

Q Well, what do you mean by saying you don't think it is? A Well I mean that he lived three years of this lease out there on the farm, that is, living three years on the farm.

Q Was there any particular reason for your remembering that for 32 years, the time that these people when on your grandfather's farm?

A The thing that calls the memory to the time was the fact that Alexander bought the place.

Q And you remember the year he bought the place? A Yes, sir.

Q Do you remember this by talking to your grandfather or somebody else or have you retained it in your own memory? A I have retained it in my mind, by talking to Alexander during his life time.

QQ You have retained it by talking to Alexander? A Yes, sir.

Q You are testifying by what Alexander told you? A I know he came there in '68.

Q I want to know if you are testifying about these dates by what Alexander told you? A I am not.

Q What made you say you remember it by talking to Alexander in his life time? A I remember him moving there in '66 same as I remember I moved to Kansas in '61.

Q Then if Peter Ward and Abraham Ward and the rest of the Wards swear they left Kansas in '66 they are mistaken, are they? A I don't know what they testified to..

Q Who else lived on your grandfather's place after the wards moved off? A At the time they lived on the place there, at one time, not all the time, there was a man by the name of Anderson Turk.

Q When did he move on the place? A He moved on the place sometime in '65, he had been on the place I think a year.

Q When did he move off? A He moved off the place, let's see, about '75.

Q Well, are you swearing he moved off in '75? A He moved up north and bought a place up north, he lived on the place 12 years and moved there in '65.

Q What year did he move off? A About the year 1875.

Q You swear that, do you? A Yes, sir.

Q Who lived on the place besides that man? A Why George Brown lived there.

Q When did he move on the place? A He didn't rent, he just simply rented a room from Anderson Turk and lived there.

Q When did he rent the room? A Why it was sometime, it was in '67 or '8, I am not sure which.

Q Well, which is it, '67 or '8; just as much reason for you to remember that as there was about Peter Ward?

Mr. Hastings: Don't argue that question.

Q What year was it that that man lived on the place? A '67 or '8, I am not sure which.

Q Why can't you remember, if you can remember when Peter Ward moved

on the place and when he moved off? A Brown lived there just a short time and by permission of Anderson park.

Q When did he live there? A I think one winter.

Q You don't know when he went on and when he went off? A In the fall season he went in and just wintered there one winter.

Q Who lived on this place in 1876? A There was no one in '76, nobody then but our own folks.

Q Who cultivated it? A The old gentleman.

Q Anybody else ever live on that place? A How do you mean, since '66? A Yes, sir, since '66? A Yes, I think Uncle Ben Ward lived on the place.

Q When did Ben Ward live on the place? A He lived on the place. I think it was, let's see, about '67.

Q Now was it about '67, or was it '67? A I am not sure whether it was '67.

Q Why can't you remember when Ben Ward lived on the place? A I am pretty sure it was '67 when he lived on the place.

Q Do you swear positively it was '67 when he lived on the place?

A I am pretty sure of it, I am not positive.

Q Might have been '66? A No, it wasn't '66, because my recollection is that he moved on the place after Uncle Peter did, took another lease.

Q It was '67 then? A Yes, sir.

Q Might have been '68? A Yes, it was either '67 or '68, was either of the two years, it was a year after Uncle Peter moved.

Q You want to be understood as swearing positively that Uncle Peter Ward moved on the place in '66? A Yes, sir, spring of '66.

Q And you were a 12 year old boy at the time? A Yes, sir.

Q Don't you think you have a remarkable memory? A I never considered my memory as anything extra.

Commissioner: Mr. Kingsbury, Mr. Hastings asked you your father's name and you gave your grandfather's name; why did you not give your father's name when he asked you? A My father was in California and my grandfather raised me, I have been living with him ever since I was 7 years old, ever since; my father is dead now.

Mr. Hastings: I had talked to you about your grandfather's place? A Yes, sir, that is the place that I live on now, and this family lived on it my grandfather's now, he is still living, he is quite an old man.

BYRON OSBORN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Byron Osborn.

Q Mr. Osborn, how old are you? A 49 years old.

Q What is your postoffice? A Mound City, Lynn County, Kansas.

Q How long have you lived in and about Mound City, Kansas? A Well sir, my father settled there in '54, March 20.

Q Have you lived there since that time? A Well, that has been my home, I have been away a year or so at a time, was back in Illinois a couple of years and I was out in Colorado about the mountains about 12 or 14 months.

Q Well, where were you the three or four years after the war? A I was on our place, home.

Q How far was your place from Mound City, Kansas? A Three miles.

Q What direction? A Southwest.

Q How far was that from the Durbin farm? A Well, it is about two miles and a half I should judge.

Q Do you know Mr. Kingsbury, who has just left the stand?

A Yes, sir.

Q He is a grandson of Durbin? A Yes, sir.

Q Did you know a colored man by the name of Peter Ward? A Yes, sir, I used to know Mr. Ward.

Q Did you know any of the members of his family? A Yes, sir.

Q Give me the names of some of them? A I know of Abe and I know Perry and I know Squire Ward, that is about all that I know, he had

other children but I wasn't acquainted with them, I think he had some girls I wasn't acquainted with.

Q When did you know them? A Well, sir, it was along I think the latter part of summer, they lived in there.

Q About how long did you continue to know them? A Well, the best of my recollection is that I knew them I think probably eight or nine or ten years.

Q I mean did you know them after the war? A Yes, sir.

Q How long after the war did you know them? A Well, I should judge it was, to the best of my recollection, I think it was probably five or six years after the war, four or five maybe, sometime after the war, but I can't state how long.

Q Do you know where they were living? A Yes, sir.

Q What place? A They were living on Mr. Durbin's farm.

Q Do you remember where they went when they left there? A Well I don't know positive, only I have understood they came to the Indian Territory.

Mr. Mellette: How old are you? A 49 years old.

Q How old were you when the war closed? A Well I guess I was about 12 or 14 years old.

Q Now who did you first talk to about knowing anything about these people? A Mr. Keys.

Q Mr. Keys came up into Kansas, didn't he? A Yes, sir.

Q Found you? A Yes, sir, he asked me did I know the Wards and I told him I did.

Q Well was that the first time that anybody had ever talked to you about when the Wards left that country? A Yes, sir.

Q That has been about 32 years ago, hasn't it? A Well it has been a long while, I don't know just how long.

Q You were a boy about fourteen years old? A Yes.

Q Do you think you can remember back to your boyhood days and swear positively when Peter Ward left that country? A I don't swear positively.

Q How far do you swear positively? A Well I know that he was there sometime after the war.

Q You know he was there sometime after the war? A Yes.

Q Can you remember the events and the succession of facts as they happened thirty years ago when you were a boy? A Well some thing I can.

Q Well, do you think this is one of the things? A Well I remember that Mr. Ward lived there, he had a boy by the name of Abe who used to work for my father sometime after the war, he worked on our place, but I can't say positively what year it was.

Q You don't know when he worked on your father's place? A I don't know what year it was, it was sometime after the war, quite a while.

Q And you don't know when he moved to Mr. Durbin's place? A No, sir.

Q Can't you remember the year he worked on your father's place? A No, sir, not positive.

Q When did they stop fighting up there in Kansas? A Along about, I think the last fight they had was when Price went through, I think the latter part of '66 or '65, along there.

Q '66, was it? A Or '65.

Q You say they had a fight up there the latter part of '65, that Price went through there? A No, I didn't say '65.

Q The latter part of '65 or '66? A The latter part of '66 or '65.

Q The latter part of '66 or '65, you say that? A I saw either the latter part of '65 or '66, sometime along in there that Price went through there.

Q Don't you know that Price made his raid through there in '63? A No, I don't hardly believe he did.

Q And don't you know that General Lee surrendered to General Grant in April, 1865, and that there wasn't any fighting any place after April, '65? A Well it might be, but the war wasn't closed entirely

till about '65.

Q Yes but you say Price made his raid through there in '65 or '66?

A I meant '64 or '5.

Q What made you change? A Well, I just made a mistake.

Q Who talked to you after you came? A Nobody.

Q Well Mr. Hastings here consulted you, didn't he? A He asked me some questions.

Q Was Mr. Kingsbury present? A Yes, sir.

Q Who else was present? A There was lots of gentlemen there.

Q All you witnesses who came down in that case were present and talked to together? A Well they asked me some questions.

Q Now when you were being consulted you and Mr. Kingsbury and the other witnesses in this case were all sitting in the room and heard what went on here? A I think maybe I did hear a part of Mr. Kingsbury's testimony, I wasn't in there all the time, I don't know anything about when Mr. Ward left that country, I can't swear positive, but I am satisfied that he was there several years after the war closed.

Q But then if you think that Price made his raid through there in '65 or '66 you may be mistaken when the war closed? A I meant '64 or '65.

Q Do you say that Price did make his raid through there in '64 or '5? A I wouldn't say positive.

Q You wouldn't say positively about that? A No, it seems to me it was in that time.

Q You were a boy? A Yes, I was a boy.

Mr. Hastings: You were summoned here as a witnesses on the part of the Cherokee Nation, weren't you? A Yes, sir.

Q I consulted you with a number of other witnesses down there?

A Yes, sir.

Mr. Mellette: How were you summoned here on the part of the Cherokee Nation? A By subpoena.

Q Who served the subpoena on you? A Mr. Campbell left it at my farm.

Q Who is Mr. Campbell? A His name is Nave Campbell.

Q Where does he live? A He lives in Mound City, Kansas.

JOSEPH L. WARD, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Joseph L. Ward.

Q What is your age, Mr. Ward? A 56.

Q What is your postoffice? A Maysville, Arkansas.

Q You live in the Cherokee Nation side there? A Yes, sir.

Q You are a Cherokee citizen by blood? A Yes, sir.

Q Mr. Ward, what was your father's name? A James Ward.

Q Did your father ever own a colored man by the name of Peter Ward?

A No, sir, my grandfather owned him.

Q You know Peter Ward then? A Yes, sir.

Q Before the war? A Yes, sir, he married a negro woman my mother owned.

Q He had some children. A Yes, sir.

Q You remember any of their names? A Yes, sir.

Q Well, give us some of them? A Abraham was the oldest, Berry, Margaret, Miner, Squire, Eliza, Dave, and Glini, is all they had when they left there that I know of, that I remember.

Q Did they live there when the war came up? A Yes, sir, in '63 as well as I can remember.

Q Did you ever afterwards see them? A Yes, sir.

Q Where did you next see them? A In Mound City, Kansas.

Q When was that? A In the fall of '65, October.

Q Now when did you next see anyone of this family? A The next time one of them was here in Vinita just after that payment, the first payment of the Cherokees. I don't remember the exact date.

Q You don't remember the exact date? A No, sir.
Q It wasn't this last colored payment? A No, it was the first payment that was had after the war.

Q You don't remember the date of that payment? A No, I don't remember the date.

Q Was this railroad through here at that time? A I think so.

Q Well, which one of them did you see at that time? A Abraham.

Q Did you have any conversation with him? A Why yea, he told me that he didn't get any money, that he came too late.

Q He say where he was living at that time? A Living out here on Big Creek, up here in Coawasscoowee.

Q You remember when he said he came? A No, I don't, positive, it seems to me he told me he came here in '69, that is my best recollection.

Q Did you see any other members of the family at the time? A No, sir, not that I remember.

Q Have you talked with any of them since that about it? A No, sir.

Q You live quite a distance from them? A Yes, sir, I live about fifty miles southeast of here, and they live northwest.

Q You don't remember the date of that payment? A No, I don't remember the date of it, somewhere in '70 but I don't know exactly what date it was.

Mr. Mellette: Well, did any of the colored people get the payment at that time? A I don't know, I don't think they did.

Q Don't think any of them got it? A I don't know, I don't remember, of course I can't state.

Q You wouldn't swear that he told you he came here in '69, positively? A Not positively, but that is my best recollection.

Q Well, that has been a long time ago, hasn't it? A Yes, sir.

Q You ever been arrested? A I don't know that that cuts any figure in the case.

Commissioner: Please answer the question.

A Why yes.

Mr. Mellette: What were you charged with? A I was charged with charging an unlawful fee in a pension case.

Q That all? A And detaining pension money.

Mr. Hastings: What was done with the case, Mr. Ward? A Dismissed.

JOHN L. WARD, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A John L. Ward.

Q What is your age, Mr. Ward? A Age is 50.

Q What is your postoffice? A Maysville, Arkansas.

Q You are a Cherokee citizen by blood? A Yes, sir.

Q You live on the Cherokee side of the line? A Yes, sir.

Q What was your father's name? A His name was James Ward.

Q Did you know a colored man by the name of Peter Ward? A I did when I was a boy, I haven't seen him since.

Q Did he have some children? A Yes, sir.

Q You remember any of their names? A Yes, I recollect most of their names, there was Margaret and Abraham, Louise was the old lady's name.

Q We want to identify the family, name some of them? A Margaret and Abraham and Berry and Miner and Ben I think and Dave and Elize and Clint.

Q Did you ever see any of them after the war? A I never saw but one of them; yes I have seen them too, I seen Squire here the last court, one they call Dick or Squire.

Q Well which one did you see first after the war? A That was Miner.

Q What was her name then? A Rowe I think she called her name.

Q Where did you see her? A Up here between here and Chetopa, Big Creek I think it was.

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Q Between here and Chatopa? A Yes, sir.

Q In what district? A In Geowesscoowae I guess.

Q Did you have any talk with her? A Yes, sir.

Q About when was that talk? A Sometime in the sixties, '55 or '6 or '7, somewhere along there, I don't recollect just the year.

Q Now think over the date, do you mean '60? A '70 I mean '70, something in '70, I have got it wrong, '60 I said, it was sometime in '70.

Q You say it was sometime in '70? A Yes, sir.

Q You know whether it was before or after this railroad ran through here? A Yes, sir, it was after this railroad ran through here.

Q This M.K. & T.? A Yes, sir.

Q Well, what conversation did you have with her? A We stopped there where she lived and she called up a couple of boys that she had and she told me their names, she called one of them Grant and the other one Sherman, and ~~asked~~ then she sent a crazy negro down in the field for her husband, and she said she wanted to know what they were going to do about them, she said they got back too late; I said I didn't know what they were going to do, and that is about all the conversation I had; I asked them about the family, where they lived; they were all around there except one of them, there was one had never come back, that is my recollection, I don't know which one now.

Q Who was with you at the time? A Will, my brother, we had been up to Coffeyville with some apples and came back by there and stopped.

Mr. Kallette: You say you asked them about the family? A Yes, sir.

Q Talked a good while with them I suppose? A We stopped there about half an hour or an hour.

Q Where did she say her father was? A He lived there somewheres.

Q Where? A Up here about Big Creek.

Q Where did she say Abraham was? A He was there.

Q Where? A Up in there, right close there, I was asking how they all were getting along.

Q How many years ago has that been? A Along in '70 sometime.

Q '70 when? A Between '75 and '77.

Q What made you say it was in '60 first? A I just miscalled it.

Q Wasn't it in the sixties? A No, sir.

Q Don't you know it was in '66? A No, sir.

Q Between '66 and '7 and '8? A It wasn't in '66.

Q Why wasn't it? A Because this railroad was built through here.

Q When were you first called upon to remember this? A Well, it was down here in this rock house down here.

Q How long ago? A I don't remember.

Q When Mr. Wallace made this roll? A No, sir.

Q When Mr. Kern and Clifton made the roll? A It was when this negro attorney was down there, I don't know his name.

Q How long ago? A I don't remember just now.

Q About how long ago did you first remember that she said she was too late? A It was when we were up there, is all I know about it.

Q About how long ago, I want to find out when it was? A The reason I think it was about seventy, because I was married in '78 and it was before I was married.

Q How many years before you were married? A Two or three.

Q Two or three? A I don't remember just exactly, it was so long ago you can't recollect, I can't recollect the exact dates.

Q That is what I am thinking about, unless I have something to impress it on my mind; nobody called on you to remember what they said for twenty or thirty years afterwards? A No, I wasn't called on until I was summoned here before this Court.

Q This time? A No, that other time.

Q What time was that? A I don't remember; you may recollect the date Mr. Hastings.

Q Who were making the roll at that time? A Hastings and Thompson and there was a negro there, an attorney, I forget his name.

Q You can't give any idea when that date was can you; why can't you remember the date you were first called on to testify to this fact

as well as you can remember then she told you she came here too late?
A I never paid much attention to it.

Q Did you pay much attention to when she said she came here too late?
A Yes, I recollect by the trip we made and I got to counting it up.

Q After thirty years you got to counting it up, did you? A It wasn't thirty years.

Q Well, twenty? A Let's see, it was over thirty years I guess.

Q It was over? A It was in seventy something.

Q Well how many years has that been? A Well I can count, this is 1901, you can count yourself.

Q Why I am not going to do it, I asked you how many years it was?

A Thirty years from seventy, and then it was along in '70, well I don't recollect just exactly the year though, it was before '77, sometime between '70 and '77, I don't remember just exactly the year. I don't propose to swear something I don't know.

Q Well you give it up then, you can't tell how many years it has been? A I don't recollect the exact year.

Q And you can't tell the year you were down here in the rock building and when Mr. Hastings and Mr. Thompson were making the roll? A No, I don't recollect the exact year.

Q Was it 1895? A I don't remember.

Q 1890? A (No response.)

Q Was it 1890? A No, sir, it wasn't then.

Q When was it? A I don't know just when, I don't recollect the year.

Mr. Hastings: That was the first time you had seen these old slaves since the war, when you had this conversation? A Yes, sir, and then during this Court I was sworn when I was up here last Court.

Q Are you summoned here as a witness this time? A Yes, sir.

Q Were you summoned when you testified before when you represented the Nation in part? A Yes, sir.

Q You remember Mr. Thompson was a member of the Court at that time? A Yes, sir.

Q You remember the other two members of that Court? A I don't recollect them.

Taking of testimony continued by stenographer J. O. Rosson.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 18th of October, 1901.

[Signature]

Commissioner.

Continuation of taking of testimony in case of ABRAHAM
WARD, C.F.-D.#607.

Former portion taken by Stenographer
Bruce C. Jones.

APPEARANCES:

Mr. Mellette, of Counsel for Applicant;
Mr/ W. W. Hastings, of Counsel for Cherokee Nation.

L. B. BELL, being duly sworn by Commissioner Needles,
testified as follows on behalf of Cherokee Nation:

MR. HASTINGS: What is your name? A L. B. Bell.

Q Age? A 52; Vinita.

Q Mr. Bell, when was this rick railroad, M. K. & T. railroad, built
through this country? A '71.

Q When was that first Cherokee payment made after the war? A '75.

Q Do you know whether colored people and all participated in that
payment or not? A Yes, every Cherokee citizen and whole lot
that wasn't.

Q That was a general payment? A Yes, that was general payment
intended for relief fund for all people living in the Cherokee Nation

MR. MELLETTE: Did any colored people get pay at that time?

A Yes, I know two that did, they were living with me.

ABRAHAM WARD, the applicant, called, testified as follows
in his own behalf:

MR. MELLETTE: What is your name? A Abraham Ward is my name.

Q Are you the Abraham Ward who is an applicant for enrollment as a
Cherokee Freedman? A Yes, sir.

Q Did you know J. L. Ward who has just testified in this case?

A Yes, sir, I know him.

Q Did you ever make a statement as testified to by him that you
came here too late to become a citizen? A No, sir, I did not.

Q Did you make statement, as testified to by him, that you came
back in '69? A No, sir.

Q Did you hear the testimony of John Ward, the last witness?

A No, sir.

Q Did you hear his testimony? A I heard it yes, sir.

Q Did you hear a statement being said of yourself, mother ~~an~~ or
sister to him? A Yes, sir.

Q Where is that sister? A She is dead.

Q How long has she been dead? A About 17 years.

MR. HASTINGS: When was the first time you ever saw Joe Ward
after the war? A I saw him when the Cherokees drewed that general
payment, what called bred money.

Q What year was that? A I don't remember just what year it was.

Q Well, that is strange? A It was in '70 though I think.

Q Where did you see him? A '78 or '9; saw him right here at Vi nit

Q '78 or '9? A Yes, sir.

Q Along there; saw him here at Vi nita? A Yes, sir.

Q You didn't talk with him? A Yes, we was talking about our
boyhood times.

Q Talked to him where you had been? A No, sir, he knew where I
had been.

Q He was your young master? A Yes, sir, me and him was about one
age.

This Testimony will be made part of the record in cases
D.#608, D.#610, D.#611, D.#613, D.#425, D.#615, D.#616, D.#618,
D.#619, D.#621, D.#622, D.#623, D.#625, D.#626, D.#605

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J. O. Rosson, being first duly sworn, states that as steno-
grapher to the Commission to the Five Civilized Tribes he correctly
recorded the testimony and proceedings in this case, and that the
foregoing is a true and complete transcript of his stenographic
notes thereof.

Subscribed and sworn to before me this October 14th, 1901.

Commissioner.

80625

ACTING CHAIRMAN.

Commissioner.

Sworn to and subscribed before me the 1st of October, 1901.

True and complete transcript of this stenographic notes thereof.

the Commission and testimony in the above case, and the foregoing is the Commission to the Five Civilized Tribes he correctly recorded the Prince C. Jones, being duly sworn, says that as stenographer to

D-602.

D-612, D-614, D-618, D-619, D-621, D-622, D-623, D-624, D-625, D-626, D-627, D-628, D-629, D-630, D-631, D-632, D-633, D-634, D-635, D-636, D-637, D-638, D-639, D-640, D-641, D-642, D-643, D-644, D-645, D-646, D-647, D-648, D-649, D-650, D-651, D-652, D-653, D-654, D-655, D-656, D-657, D-658, D-659, D-660, D-661, D-662, D-663, D-664, D-665, D-666, D-667, D-668, D-669, D-670, D-671, D-672, D-673, D-674, D-675, D-676, D-677, D-678, D-679, D-680, D-681, D-682, D-683, D-684, D-685, D-686, D-687, D-688, D-689, D-690, D-691, D-692, D-693, D-694, D-695, D-696, D-697, D-698, D-699, D-700, D-701, D-702, D-703, D-704, D-705, D-706, D-707, D-708, D-709, D-710, D-711, D-712, D-713, D-714, D-715, D-716, D-717, D-718, D-719, D-720, D-721, D-722, D-723, D-724, D-725, D-726, D-727, D-728, D-729, D-730, D-731, D-732, D-733, D-734, D-735, D-736, D-737, D-738, D-739, D-740, D-741, D-742, D-743, D-744, D-745, D-746, D-747, D-748, D-749, D-750, D-751, D-752, D-753, D-754, D-755, D-756, D-757, D-758, D-759, D-760, D-761, D-762, D-763, D-764, D-765, D-766, D-767, D-768, D-769, D-770, D-771, D-772, D-773, D-774, D-775, D-776, D-777, D-778, D-779, D-780, D-781, D-782, D-783, D-784, D-785, D-786, D-787, D-788, D-789, D-790, D-791, D-792, D-793, D-794, D-795, D-796, D-797, D-798, D-799, D-800, D-801, D-802, D-803, D-804, D-805, D-806, D-807, D-808, D-809, D-810, D-811, D-812, D-813, D-814, D-815, D-816, D-817, D-818, D-819, D-820, D-821, D-822, D-823, D-824, D-825, D-826, D-827, D-828, D-829, D-830, D-831, D-832, D-833, D-834, D-835, D-836, D-837, D-838, D-839, D-840, D-841, D-842, D-843, D-844, D-845, D-846, D-847, D-848, D-849, D-850, D-851, D-852, D-853, D-854, D-855, D-856, D-857, D-858, D-859, D-860, D-861, D-862, D-863, D-864, D-865, D-866, D-867, D-868, D-869, D-870, D-871, D-872, D-873, D-874, D-875, D-876, D-877, D-878, D-879, D-880, D-881, D-882, D-883, D-884, D-885, D-886, D-887, D-888, D-889, D-890, D-891, D-892, D-893, D-894, D-895, D-896, D-897, D-898, D-899, D-900, D-901, D-902, D-903, D-904, D-905, D-906, D-907, D-908, D-909, D-910, D-911, D-912, D-913, D-914, D-915, D-916, D-917, D-918, D-919, D-920, D-921, D-922, D-923, D-924, D-925, D-926, D-927, D-928, D-929, D-930, D-931, D-932, D-933, D-934, D-935, D-936, D-937, D-938, D-939, D-940, D-941, D-942, D-943, D-944, D-945, D-946, D-947, D-948, D-949, D-950, D-951, D-952, D-953, D-954, D-955, D-956, D-957, D-958, D-959, D-960, D-961, D-962, D-963, D-964, D-965, D-966, D-967, D-968, D-969, D-970, D-971, D-972, D-973, D-974, D-975, D-976, D-977, D-978, D-979, D-980, D-981, D-982, D-983, D-984, D-985, D-986, D-987, D-988, D-989, D-990, D-991, D-992, D-993, D-994, D-995, D-996, D-997, D-998, D-999, D-1000.

Commissioner: This testimony will be made part of the

Mr. Hastings: You wanted see Brown up in your room, A Yes, sir. O You don't know how long they had been there, A No, sir. O You saw three words to there, A Yes, sir, I remember the three, A About 100.

File with Cherokee Freedman, D-625, Amanda Hill.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 8, 1901.

In the matter of the application of Abraham Ward et al. for enrollment as Cherokee Freedman.

Additional testimony on behalf of the Cherokee Nation.

Appearances.

Mellette & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

JOHN B. BROWN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A. John Brown.

Q. J. B. Brown? A. Yes, sir.

Q. What is your postoffice? A. Springer.

Q. That in the Territory? A. Yes, it is in the Territory.

Q. You are a Cherokee Indian by blood? A. Yes, sir.

Q. What is your age? A. I am 52.

Q. You married a Choctaw, or Chickasaw? A. Married a Chickasaw.

Q. How long have you been down there? A. I moved down there about two years ago.

Q. When did you come back to the Cherokee Nation after the war?

A. We landed back in the Cherokee Nation in the fall of '65.

Q. Where did you live during the year of '66? A. We were down there on Grand River.

Q. Where did your father live in '67? A. He was on Pryor Creek, I think he lived on Pryor Creek.

Q. Do you know a colored man by the name of Peter Ward, and Abraham Ward? A. Yes, sir.

Q. When did you first see them after the war? A. To the best of my recollection, I saw them in '68 in Kansas near Mound City.

Q. What were you doing up in Kansas? A. There was an old negro that my father owned, lived with him, I met him down here, and he had a pension coming to him and I went with him up there to draw this money and I found these people there in Ottawa, we went to Ottawa, Kansas, to draw this money and there is where I saw these people.

Q. Who did you go with? A. Jess Brown and Jess Marcum, and there I saw old Uncle Peter Ward and Abe and Berry, there was younger ones but they were smaller, I got acquainted with them three.

Q. Were they living there at the time? A. Yes, sir, they were living there.

Q. Living in town or on a farm? A. No, they were living on a farm out a little piece from Mound City; Mound City, as well as I recollect must be about 40 or 50 miles of Ottawa, Kansas.

Q. About what time in the year did you see them there? A. It was in July or August, I remember they were cutting wheat when I was there.

Q. Summer time? A. Yes.

Q. Well, about how long did you stay around there? A. I don't know how long, I don't remember how long, we stayed a while at Mound City and then went on up to Ottawa and stayed there quite a while, we didn't get the money when he first went there, we had to wait on account of some papers wasn't fixed up right, and we had to stay there, I would not say positively how long it was.

Q. Was you at Peter Ward's house? A. I can't say positively; you see there was a whole bunch of them lived around there, and I went to several of the houses around there and when they had preaching there while I was there and I went to church and seen them; they all found that I was an Indian and they came in to see me and talk with me.

Q. You were with these colored men, two colored men? A. Yes, sir, I

was with Jess, his mother was living there and his brother was there.

Q His mother and brother? A Yes, sir, mother and brother.

Q Did you see Abraham Ward? A Yes, sir, yes, sir.

Q You remember distinctly seeing him? A Yes, I remember him very well.

Q Well now did you meet anybody after you came back home, after you came back to the Cherokee Nation? A What do you mean; when I came back who did I meet?

Q Yes, if anyone? A No, I left them over there, they never come back.

Q Did you meet any of the Couches? A Yes, sir, Sam Couch and Pete Couch had just moved from Texas and I moved on Pryor Creek, they just had moved in, I just had come back from this trip and met them on Pryor Creek.

Q Now how many Wards had you seen up there, you saw Peter and Abe and Berry? A I remember Peter, that is Abraham's father, Uncle Peter we called him, and Berry and Squire, not Squire, no, Abraham, them three I remember.

Q There were others but you don't remember? A Yes, there were other boys, I got acquainted with them after they moved back later on, but I don't remember seeing them up there like I do these other men, I knew them after I met them after they came back I knew who they were.

Q Did they say anything about having been back down here after the war before that? A No, sir, never said anything about that, they told me ~~that~~ they were coming back just as quick as they could come, everyone I seen was talking about coming back.

Q Where did you live in '66? A We were down on the Adair place, some called the Adair place and used to be known as the Alex McDaniel place.

Q Where were you in '67? A We were there in '67.

Q Where were you in '68? A Then we went on Verdigris, we had moved over there to Verdigris.

Q And that was in '68 you went up there? A Yes, in '68 I went to Kansas.

Mr. Mellette: You say you saw these wards up there in Kansas at church? A Yes, sir.

Q How long did you stay in Kansas that fall? A I can't tell you how long I was there.

Q You didn't lose your citizenship by going up there to Kansas? A Didn't lose my citizenship, no, sir.

Q How long did you stay there, you say? A I don't remember, might have been there two, three or four weeks.

Q You didn't go to their house? A Yes, sir, I went to old Uncle Peter Ward's house.

Q Why didn't you say just a while ago that you did go to their house? A I said I went to several homes there, they lived all around in that country at different places, and I had been meeting them one day and another while I stayed there.

Q What were you doing while you were up there? A I went up there with this old Jess Brown to get his money.

Q Where did you have to go to get his money? A Went to Ottawa, Kansas.

Q How far is that from here? A I don't remember how far it is.

Q About how far? A Oh, it is a long ways.

Q How far did they live from Ottawa? A As well as I remember, it must be forty or fifty miles, they were living at Mound City to the best of my recollection.

Q What were you doing at Mound City? A There is where Jess's brother and mother lived, we landed there first.

Q What did you stay there for? A He wanted to see his mother, I stayed with him.

Q Did you have to stay with him? A Of course I had to stay with him, I went with him, whenever he got ready to go on up to Ottawa

we went on.

Q You saw three wards up there? A Yes, sir, I remember the three.

Q You don't know how long they had been there? A No, sir.

Mr. Hastings: You hauled Jess Brown up in your wagon? A Yes, sir.

Commissioner: This testimony will be made part of the record in Freeman cases D-608, D-610, D-611, D-613, D-625, D-615, D-616, D-618, D-619, D-621, D-622, D-623, D-625, D-626, D-605.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 21st of October, 1901.

W. H. Hastings

Commissioner.

CONFIDENTIAL

ACTING CHAIRMAN

expected and sworn to before the trial of George, 1901.

George, 1901

and state and correct translation of the stenographic notes therein. All the proceedings in the above cases and that the foregoing is to the Commission to the five qualified judges he proposed to sit with him and Meigs, being first sworn, states that he understands

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D-603 and D-602 and their accomplices.

United States, Charles Frederick, D-604, and also in C. E. D. cases and traditions will be used with the original exhibition of

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 15, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Daniel Thompson et al., C. F. D. #606.

Appearances:

James S. Davenport for the Cherokee Nation
Mallette & Smith for the ~~Cherokee~~ applicant.

T. F. Thompson, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation-

(By Davenport)

Q What is your name? A T. F. Thompson.

Q Where do you live? A 3 miles south of Vinita.

Q What is your age? A 54.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Do you know the applicant in this case, Daniel Thompson? A Yes sir.

Q Did you know him before the war? A Yes sir.

Q Do you know where he went during the war? A I think he went north to Kansas.

Q Where did your family go during the war? A To Red River.

Q Choctaw Nation? A Chickasaw Nation.

Q When did you return to this country? A In the fall of '66, in October.

Q Did this applicant go with your family? A He never was with us during the war.

Q When your family returned to the Cherokee Nation where did they locate? A On Grand river, 12 or 15 miles east of here.

Q How far from where they had originally lived? A Same place.

Q Was the applicant there when you returned? A No sir.

Q When did you first see the applicant after the war? A Here in Vinita, I can't tell exactly the time.

Q With reference to the time the railroad was here when was it? A The Katy was here I think.

Q About what year was it? A As well as I remember it was in '71 or '72.

Q Had the applicant prior to that time ever lived on your place on Grand river? A No sir.

Q Had you any conversation with him in regard to where he lived or when he came back? A No sir.

Q Where was he living at that time? A On Big Creek, he told me.

Q Did he say then that he had been living on Grand river at the old place? A No sir.

Q You had always lived on the old place since your return? A Yes sir.

Q Same place you lived on prior to the breaking out of the war? A Yes sir.

Q Had the applicant been there after the war --to your house? A Not that I know of.

Q You saw him here in Vinita for the first time after the war? A Yes sir.

Q Did he come to your house at that time? A He came to my father's house and staid a day or two with my father.

(By Smith)

Q What was your father's name? A Johnson Thompson.

Q Is he a Cherokee? A Yes sir.

Q By blood? A Yes sir.

Q A recognized citizen of the Cherokee Nation? A Yes sir.

Q Did he own Daniel Thompson before the war? A Yes sir.

Q Was Daniel Thompson with your father when the war commenced? A Yes sir.

Q What time did you get back here after the war? A October, '66.

Q You came to what place? A Our old place.

Q How far from where Vinita is now? A 12 or 15 miles.

Q How old were you then? A 13 years old.

Q Just a moment, Yes sir.
Q From the time that you came back to your old place, for the following two years, where were you? A I was there--I went to school one or two sessions at Pea Ridge, Arkansas.
Q Then you don't know if this applicant was there during that time or not, while you were away at school? A Not while I was away.
Q All you know is that the first time you saw him was in '71? A Yes sir.
Q You don't know how long he had then been in the Cherokee Nation? A No sir.
Q You don't know where he was during the war? A No sir.
(By Davenport)
Q When were you at school? A In '67, in the fall.
Q You was at home then from '66 to the fall of '67? A Yes sir.
Q You never saw the applicant there then? A No sir.
Q Never heard of him being there did you?
BY MR. SMITH: I object to him stating what he might have heard.
(By Smith of witness)
Q All you know is that you never saw this applicant until in '71 or '72? A Yes sir.
Q Before that time you don't know where he was? A No sir.

DAVID STINGER, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:
(By Davenport)
Q What is your name? A David Stinger.
Q Where do you live? A On Big Creek, Cherokee Nation.
Q How old are you? A 60.
Q How long have you lived in the neighborhood of Big creek in the Cherokee Nation? A About 26 years.
Q Do you know the applicant here, Daniel Thompson? A Yes sir.
Q How long have you known him? A Since '72.
Q Where did you first see him? A I saw him in the Territory on the east prong of Big Creek.
Q What was he doing when you saw him? A Just commenced making a farm there.
Q Did you have a conversation with him then? A Yes sir.
Q What was that conversation? A He told me that he used to live here and was owned here, and that he went to Kansas, and thought he would come back because he was owned here--thought he would come back home as he called it.
Q Did he have a family with him then? A Yes sir.
Q What was that family? A I think in '72.
Q What kind of money had he made then? A Nothing, he was just in a wage there.
Q Did he say when he had gone to Kansas? A No, I don't know anything about that.
Q Was anything said about his having been in the Cherokee Nation before that? A I don't think there was.
Q How many children did he have there? A Two.
Q What were their names? A Sandy and Mandy.
Q Were they both with him? A Yes sir.
Q Did he afterwards make a place there? A Yes sir.
Q Where has he been living since? A Right there all the time.
Q What year was this you say he came there? A '73.
(By Smith)
Q You know that he has been living there continuously ever since '73 in the Cherokee Nation? A Yes sir.
Q How long had you been there in '72? A I came there in '71.
Q Where from? A Peoria, Illinois.
Q Had you ever been in the Cherokee Nation prior to '71? A No sir.

Q You don't know where this man Daniel Thompson was in 1870? A No I don't know that.

Q You don't know where he was in '69? A No sir.

Q Or in '68? A No sir.

Q Or in '67? A No sir.

Q Or in '66? A No sir.

Q Or in '65? A No sir.

Q You don't know when he first returned to the Cherokee Nation after the war? A He told me then that he had returned then from Kansas.

Q You don't know whether he had been here before that or not? No sir he said he was owned here before the war.

Q You don't know when he first came here after the war? A No sir, only that time.

Q He might have been here before that and you not know it? A I wasn't here before the time I state and can't tell nothing about except when I was here.

(By Davenport)

Q Was he living there when you came there in '71? A No sir.

Q He said he came from Kansas when you saw him there? A Yes sir, and that he had educated his children in Kansas and was moving back home.

WILLIAM NOBLE, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

Q What is your name? A William Noble.

Q Where do you live? A On Big creek, Indian Territory.

Q Cherokee Nation? A Yes sir.

Q How long have you lived in the Cherokee Nation, Mr. Noble? A I think I came to the Cherokee Nation in the summer of '64.

Q How long have you lived on Big Creek? A Ever since the fall of '64 I think I went there then or in the spring of '65.

Q Do you know the applicant here, Daniel Thompson? A Yes sir.

Q How long have you known him? A Good many years, I can't say exactly how long, I think he moved in there on Big creek right close to me, I think he came from Kansas there in the fall of '72, and he has lived there ever since.

Q Did he settle a place there when he came down? A Yes sir.

Q How far from you? A Two and a half miles.

Q Do you remember seeing him when he came down there? A He was building when I first saw him, he had moved in there and commenced putting up a house.

Q Did he have his family with him? A Yes sir.

Q Children? A Wife and three children.

Q Did you have any conversation with him? A Yes sir, he told me he just moved in from Kansas.

Q Did he tell you that he was a slave here before the war? A Yes sir, not right then but after that he told me that he had been a slave of Johnson Thompson and that he was going to see him.

(By Needles)

Q When and how did you first come to the Cherokee Nation after the war? A In '64.

Q Were you in the army? A Yes sir.

Q When were you discharged from the army? A I was discharged, I think it was in '62.

Q In what? A '62.

Q Were you discharged before the war closed? A No sir.

Q But you think it was in '62 that you were discharged? A I believe it was.

Q In '61 maybe? A Somewhere along there.

Q Somewhere in '61 or '62? A Yes sir.

Q You testified Saturday last in the Josh Vann case didn't you? A Yes sir.

Q Didn't you say then that you were discharged in the year '65 from

the army? A I dont think I did, I think I said I didn't know exactly.

Q Didn't you in that case come back and make a correction in your testimony as to the length of time that you had been here since you came after you were discharged from the army? A Yes sir.

Q When you came back to make that correction, didn't you say that you were discharged in '65 and that you were discharged after the war closed? A I think I was discharged in '62.

Q I am not asking you when you were discharged, I am asking you what you said then? A I don't think I did.

Q When did the war close, what year? A I think it was in '61, wasn't it?

Q When did it commence? A You are just a little ahead of me when it commenced. I dont recollect it.

Q You were not discharged from the army until the war was over were you? A No sir, I was discharged twice, the last time the war was over.

Q What did they discharge you for the first time? A Three years service.

Q Then you went back the second time? A Yes sir.

Q How long did you stay then? A Two years .

Q How long did that war last? A Five years, wasn't it?

Q How long was it after you were discharged the last time before you come to the Cherokee Nation? A I think it was about three years, two and a half or three years.

Q What year did you get here? A In the spring of '66.

Q You were discharged the last time after the war had closed and you didn't come to the Cherokee Nation for two and a half or three years after you were discharged from the army, is that right? A Yes sir.

Q And you are certain you were discharged from the army after the war was over? A Yes sir.

Q And you got here in '66? A Yes sir.

Q Now, how did you do that? I went from Louisville, Kentucky where I was discharged, to Iowa, and from Iowa to Kansas and from Kansas here.

Q You dont really know anything about this applicant do you? A Only from my papers, it shows that I had some trading with him in '72.

Q You dont know how long he had been here before that? A No sir.

Q You dont know when he came ~~to the Nation~~? A No sir, except when he came to Big Creek.

(By Davenport)

Q You dont know when the war began? A No sir.

Q Nor when it closed? A No sir.

Q Had Dave Stinger come to your place before Daniel Thompson come on Big Creek? A Yes sir.

(By Smith)

Q Where did you go after you were discharged? A Iowa.

Q Where did you go then? A Kansas.

Q Where did you stop in Kansas? A Neosho ~~FAIR~~ River, between the mouth of Cherry and Fly Creeks on a creek called Short creek.

Q Did you have any trouble up at Chetopa? A No sir.

Q Were you never arrested in Kansas? A No sir.

Q Do you remember a man named Gage in Chetopa? I dont remember, I am not acquainted with him.

Q Didn't you have any trouble with him and get arrested? A No sir.

Q Didn't he have you arrested? A I dont think so.

Q Don't you know? A I know I wasn't arrested there.

Q Have you ever been arrested at all? A Yes sir.

Q Where? A In the Cherokee Nation.

Q What for? A Cattle stealing.

(By Davenport)

Q What became of that case? A It was taken to Fort Smith and went before the Grand Jury and they didn't find any bill against me.

(By Smith)

Q Are you a citizen of the Cherokee Nation? A Yes sir.

This testimony will be filed with the original application of Daniel Thompson, Cherokee Freedman, D-608, and also in C. F. D. cases D-623 and D-695 and their subreferences.

Chas. von Weise, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cases and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weise

Subscribed and sworn to before me this 17th of October, 1901.



Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October 15, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Daniel Thompson et al., C. F. D. #608.

Appearances:

James S. Davenport for the Cherokee Nation
Mellotte & Smith for the ~~Cherokee~~ applicant.

T. F. Thompson, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation—
(By Davenport)

Q What is your name? A T. F. Thompson.

Q Where do you live? A 3 miles south of Vinita.

Q What is your age? A 54.

Q How long have you lived in the Cherokee Nation? A All my life.

Q Do you know the applicant in this case, Daniel Thompson? A Yes sir.

Q Did you know him before the war? A Yes sir.

Q Do you know where he went during the war? A I think he went north to Kansas.

Q Where did your family go during the war? A To Red River.

Q Choctaw Nation? A Chickasaw Nation.

Q When did you return to this country? A In the fall of '66, in October.

Q Did this applicant go with your family? A He never was with us during the war.

Q When your family returned to the Cherokee Nation where did they locate? A On Grand river, 12 or 15 miles east of here.

Q How far from where they had originally lived? A Same place.

Q Was the applicant there when you returned? A No sir.

Q When did you first see the applicant after the war? A Here in Vinita, I can't tell exactly the time.

Q With reference to the time the railroad was here when was it? A The Katy was here I think.

Q About what year was it? A As well as I remember it was in '71 or '72.

Q Had the applicant prior to that time ever lived on your place on Grand river? A No sir.

Q Had you any conversation with him in regard to where he lived or when he came back? A No sir.

Q Where was he living at that time? A On Big Creek, he told me.

Q Did he say then that he had been living on Grand river at the old place? A No sir.

Q You had always lived on the old place since your return? A Yes sir.

Q Same place you lived on prior to the breaking out of the war? A Yes sir.

Q Had the applicant been there after the war—to your house? A Not that I know of.

Q You saw him here in Vinita for the first time after the war? A Yes sir.

Q Did he come to your house at that time? A He came to my father's house and staid a day or two with my father.

(By Smith)

Q What was your father's name? A Johnson Thompson.

Q Is he a Cherokee? A Yes sir.

Q By blood? A Yes sir.

Q A recognized citizen of the Cherokee Nation? A Yes sir.

Q Did he own Daniel Thompson before the war? A Yes sir.

Q Was Daniel Thompson with your father when the war commenced? A Yes sir.

Q What time did you get back here after the war? A October, '66.

Q You came to what place? A Our old place.

Q How far from where Vinita is now? A 12 or 15 miles.

Q How old were you then? A 13 years old.

- Q Just a boy? A Yes sir.
- Q From the time that you came back to your old place, for the following two years, where were you? A I was there—I went to school one or two sessions at Pea Ridge, Arkansas.
- Q Then you don't know if this applicant was there during that time or not, while you were away at school? A Not while I was away.
- Q All you know is that the first time you saw him was in '71? A Yes sir.
- Q You don't know how long he had then been in the Cherokee Nation? A No sir.
- Q You don't know where he was during the war? A No sir.
- (By Davenport)
- Q When were you at school? A In '67, in the fall.
- Q You was at home then from '66 to the fall of '67? A Yes sir.
- Q You never saw the applicant there then? A No sir.
- Q Never heard of him being there did you?
- (By Mr. Smith) I object to him stating what he might have heard.
- (By Smith of witness)
- Q All you know is that you never saw this applicant until in '71 or '72? A Yes sir.
- Q Before that time you don't know where he was? A No sir.

DAVID STINGER, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

- (By Davenport)
- Q What is your name? A David Stinger.
- Q Where do you live? A On Big Creek, Cherokee Nation.
- Q How old are you? A 60.
- Q How long have you lived in the neighborhood of Big creek in the Cherokee Nation? A About 28 years.
- Q Do you know the applicant here, Daniel Thompson? A Yes sir.
- Q How long have you known him? A Since '73.
- Q Where did you first see him? A I saw him in the Territory on the east prong of Big Creek.
- Q What was he doing when you saw him? A Just commenced making a farm there.
- Q Did you have a conversation with him then? A Yes sir.
- Q What was that conversation? A He told me that he used to live here and was owned here, and that he went to Kansas, and thought he would come back because he was owned here—thought he would come back home as he called it.
- Q Did he live a family with him then? A Yes sir.
- Q What year was that? A I think in '72.
- Q What improvements had he made then? A Nothing, he was just in a wagon then.
- Q Did he say when he had gone to Kansas? A No, I don't know anything about that.
- Q Was anything else said about his having been in the Cherokee Nation before that? A I don't think there was.
- Q How many children did he have there? A Two.
- Q What were their names? A Sandy and Mandy.
- Q Were they both with him? A Yes sir.
- Q Did he afterwards make a place there? A Yes sir.
- Q Where has he been living since? A Right there all the time.
- Q What year was this you say he came there? A '72.
- (By Smith)
- Q You know that he has been living there continuously ever since '72 in the Cherokee Nation? A Yes sir.
- Q How long had you been there in '72? A I came there in '71.
- Q Where from? A Peoria, Illinois.
- Q Had you ever been in the Cherokee Nation prior to '71? A No sir.

Q You don't know where this man Daniel Thompson was in 1870? A No I don't know that.

Q You don't know where he was in '69? A No sir.

Q Or in '68? A No sir.

Q Or in '67? A No sir.

Q Or in '66? A No sir.

Q Or in '65? A No sir.

Q You don't know when he first returned to the Cherokee Nation after the war? A He told me then that he had returned then from Kansas.

Q You don't know whether he had been here before that or not? No sir he said he was owned here before the war.

Q You don't know when he first came here after the war? A No sir, only that time.

Q He might have been here before that and you not know it? A I wasn't here before the time I state and can't tell nothing about except when I was here.

(By Davenport)

Q Was he living there when you came there in '71? A No sir.

Q He said he came from Kansas when you saw him there? A Yes sir, and that he had educated his children in Kansas and was moving back home.

WILLIAM NOBLE, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Davenport)

Q What is your name? A William Noble.

Q Where do you live? A On Big Creek, Indian Territory.

Q Cherokee Nation? A Yes sir.

Q How long have you lived in the Cherokee Nation, Mr. Noble? A I think I came to the Cherokee Nation in the summer of '64.

Q How long have you lived on Big Creek? A Ever since the fall of '64 I think I went there then or in the spring of '65.

Q Do you know the applicant here, Daniel Thompson? A Yes sir.

Q How long have you known him? A Good many years, I can't say exactly how long, I think he moved in there on Big Creek right close to me, I think he came from Kansas there in the fall of '72, and he has lived there ever since.

Q Did he settle a place there when he came down? A Yes sir.

Q How far from you? A Two and a half miles.

Q Do you remember seeing him when he came down there? A He was building when I first saw him, he had moved in there and commenced putting up a house.

Q Did he have his family with him? A Yes sir.

Q Children? A Wife and three children.

Q Did you have any conversation with him? A Yes sir, he told me he just moved in from Kansas.

Q Did he tell you that he was a slave here before the war? A Yes sir, not right then but after that he told me that he had been a slave of Johnson Thompson and that he was going to see him.

(By Smith)

Q When did you first come to the Cherokee Nation after the war? A In '64.

Q Were you in the army? A Yes sir.

Q When were you discharged from the army? A I was discharged, I think it was in '62.

Q In what? A '62.

Q Were you discharged before the war closed? A No sir.

Q But you think it was in '62 that you were discharged? A I believe it was.

Q In '61 maybe? A Somewhere along there.

Q Somewhere in '61 or '2? A Yes sir.

Q You testified Saturday last in the Josh Vann case didn't you? A Yes sir.

Q Didn't you say then that you were discharged in the year '66 from

the army? A I dont think I did, I think I said I didn't know exactly.

Q Didn't you in that case come back and make a correction in your testimony as to the length of time that you had been here since you came after you were discharged from the army? A Yes sir.

Q When you came back to make that correction, didn't you say that you were discharged in '65 and that you were discharged after the war closed? A I think I was discharged in '62.

Q I am not asking you when you were discharged, I am asking you what you said then? A I don't think I did.

Q When did the war close, what year? A I think it was in '61, wasn't it?

Q When did it commence? A You are just a little ahead of me when it commenced, I dont recollect it.

Q You were not discharged from the army until the war was over were you? A No sir, I was discharged twice, the last time the war was over.

Q What did they discharged you for the first time? A Three years service.

Q Then you went back the second time? A Yes sir.

Q How long did you stay then? A Two years.

Q How long did that war last? A Five years, wasn't it?

Q How long was it after you were discharged the last time before you come to the Cherokee Nation? A I think it was about three years, two and a half or three years.

Q What year did you get here? A In the spring of '66.

Q You were discharged the last time after the war had closed and you didn't come to the Cherokee Nation for two and a half or three years after you were discharged from the army, is that right? A Yes sir.

Q And you are certain you were discharged from the army after the war was over? A Yes sir.

Q And you got here in '66? A Yes sir.

Q Now, how did you do that? I went from Louisville, Kentucky where I was discharged, to Iowa, and from Iowa to Kansas and from Kansas here.

Q You dont really know anything about this applicant do you? A Only from my papers, it shows that I had some trading with him in '72.

Q You dont know how long he had been here before that? A No sir.

Q You dont know when he came ~~no sir~~? A No sir, except when he came to Big Creek.

(By Davenport)

Q You dont know when the war began? A No sir.

Q Nor when it closed? A No sir.

Q Had Dave Stinger come to your place before Daniel Thompson come on Big Creek? A Yes sir.

(By Smith)

Q Where did you go after you were discharged? A Iowa.

Q Where did you go then? A Kansas.

Q Where did you stop in Kansas? A Neosho ~~FAIXS~~ River, between the mouth of Cherry and Fly Creeks on a creek called Short creek.

Q Did you have any trouble up at Chetopa? A No sir.

Q Were you never arrested in Kansas? A No sir.

Q Do you remember a man named Gage in Chetopa? I dont remember, I am not acquainted with him.

Q Didn't you have any trouble with him and get arrested? A No sir.

Q Didn't he have you arrested? A I dont think so.

Q Don't you know? A I know I wasn't arrested there.

Q Have you ever been arrested at all? A Yes sir.

Q Where? A In the Cherokee Nation.

Q What for? A Cattle stealing.

(By Davenport)

Q What became of that case? A It was taken to Fort Smith and went before the Grand Jury and they didn't find any bill against me.

(By Smith)

Q Are you a citizen of the Cherokee Nation? A Yes sir.

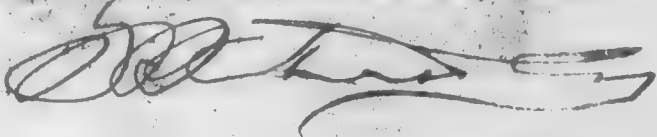
-5-

This testimony will be filed with the original application of Daniel Thompson, Cherokee Freedman, D-606, and also in C. F. D. cases D-623 and D-692 and their subreferences.

Chas. von Weiser, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas. von Weiser

Subscribed and sworn to before me this 17th of October, 1901.



Commissioner.

File with case of Amanda Hill, et al., C.F.-D.#625.

Supl.C.F.-D.#607.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 19th, 1901.

IN THE MATTER OF THE APPLICATION FOR ENROLLMENT AS CHEROKEE
Freedmen of ABRAHAM WARD, ET AL., the following supplemental testi-
mony is offered on part of applicants:

APPEARANCES:

Mellette & Smith, Attorneys for applicants;
Mr. Davenport, of Counsel for Cherokee Nation.

STEPHEN RIDGE, being duly sworn by commissioner Needles,
testified as follows:

Q. SMITH: State your name? A. My name is Stephen Ridge.
Q. How old are you? A. I am 80 years old.
Q. Are you a colored man? A. Colored man?
Q. Yes? A. Yes, sir.
Q. Where do you live? A. I live in Mound City, Kansas.
Q. How long have you lived there? A. Oh, about 37 years.
Q. In what year did you go there? A. I went there in '64.
Q. In what time in '64, what season? A. Well, I got up there
September 12th.
Q. To what place now do you refer? A. Mound City.
Q. What is your business, what do you do? A. Well, I have done
a good many things for a living, but I was employed by the Second
Baptist Church there; that is in '65, in the month of May I took
charge of the Second Baptist Church there.
Q. In what year? A. In '65 in May.
Q. Well, in what way did you take charge of it; what did you do?
A. I preached the best I knew how.
Q. You are a preacher are you? A. Yes, sir.
Q. Well, did you know a Peter ward there? A. Yes, sir, I know him.
Q. When did you first get acquainted with Peter ward? A. I was
slightly acquainted with him down in Arkansas.
Q. When did you first get acquainted with Peter ward? A. We was
slightly acquainted as I stated down in Arkansas; no, I will take
that back if you will please, I got little kinda off, I can't keep
memory like I used to.
Q. Just tell us when you got acquainted with him? A. We was slight-
ly acquainted in the old Territory; wasn't that right; was it.
Q. Just stop now and tell us when you first knew Peter Ward?
A. Well, I was correct after all.
Q. Ever know Peter Ward in Kansas? A. Yes, sir.
Q. How long had you been up there in '64 before you became acquainted
with Peter Ward? A. Oh, I became acquainted with him the first
month I went there; that was in '64.
Q. About how long did you know him there in Kansas? A. Oh, I
knew him all the while; while he was there until he come away.
Q. Well, about how long was that? A. Oh, I guess not over a year of
after I got up there; that is as long as we lived together. Well,
if you will let me state it.
Q. Go ahead now? A. Well, the way this come up; how I got so well
acquainted with him was there as I told you, the church got me, em-
ployed me for a preacher and he was then a member of that organiza-
tion and was a deacon in that church and you recollect we had out
monthly meetings to transact our business there once a month and
of course we had a great deal of business together; that is the way
I became so well acquainted with him. We was both members of the
same church.

Q Do you know what the last business was that Peter Ward transacted there in that church, or when it was? A Yes, sir. He was with us the 17th day of June, '66; that is the last time he transacted business with us.

Q The last time he transacted business with you in the church?

A Yes, sir.

Q What did you do then? A We elected another deacon in his place.

Q What business was it you transacted on the 17th day of June, '66?

A Well, the reason I remember so well about that, I remember being the last, in receiving a member into the church we, he took a stand against it; that is what keeps me in remembrance of it so well, and it was the last transaction in the church.

Q Have you any book or church record? A I have got that first little book we had, but I haven't got it in my pocket; I had it in the forenoon and went down to dinner and thought I wouldn't have no use for it and left it in my valise.

Q By what did you fix the dates of these church meetings and matters that you have talked about?

Mr. Davenport: I object to that unless you get the book up here.

A The first time the church meetings was for a while we always had out church meetings on the Saturday before the first Sunday in the month and then we changed it, I requested the church to change it to Saturday before the Second Sunday on account of the other organization I had joined:

Q Well, after that time in June, '66 that you speak of, what became of Peter Ward; do you know whether he remained in that neighborhood, or did he go away from that neighborhood? A I heard he came to the Territory.

Q Did you ever see him there any more? A No, sir, I never saw him there any more; didn't see him any more--oh, I don't know for several years.

MR. DAVENPORT: Who is this you are talking about? A Peter Ward.

Q What Peter Ward? A Why Peter Ward that's dead, I know.

Q Just Peter ward? A Yes, sir.

Q Did you ever see more than one Peter Ward in your life?

A No, sir.

Q You saw one in Arkansas? A That is the same one.

Q How many children did Peter ward have? A Oh, I don't know.

Q Did all his children go away when he did or not?

A I don't know whether they all went away at the same time or not; I know they all left.

Q All left eventually? A I would not swear that.

Q Have you been living there at Mound City, Kansas, continuously since that time? A Yes, sir.

Q Don't you know that one of his family lives up there now and has been since the war; one of his boys? A I don't know; which one?

A I am asking you if you know? A Oh, no, I don't know.

Q What boys do you know? A I know some of the older ones.

Q What is one of the older one's name? A There was Berry and Abraham and Squire, I know them all, and he had one named Ben and he had one I won't be positive, but I tell you I know them, and another one was.

Q That is the last time you saw peter in the church? A Yes, sir.

Q You have been custodian of the church books ever since that time?

A No, no, we had Clerks.

Q Have you been Pastor in charge of that church ever since 1866?

A No, sir.

Q Have you lived in Mound City all the time since that time?

A Yes, sir.

Q Who do you know up there? A I know quite a number of folks.

- Q Do you know J. D. Brown, up there? A What J. D. Brown.
Q Just J. D. Brown is all I know. A I know one Brown.
Q Well, do you know a fellow by the name of J. L. Ward that lives up there? A What is he?
Q He is a white man or Indian? A I know Mr. Ward.
Q Well, do you know B. B. Osborn? A Buy Osborn, I know him.
Q He lives there in Mound City.
Q Well, do you know C. W. Kingsberry? A There is a man that lives about there, about three miles above Mound City, I know him by name perfectly well, but I never got so well enough acquainted with him to know him when I see his face but I know there is such a man as that.
Q When did you look up that church record to see when the last time Brother Peter Ward officiated with you? A I just looked it up here about a week ago.
Q Where had that book been all the time? A I had it in my possession.
Q You made the entries in the book? A No, sir, I told you we had a clerk and he was not a member of the church and then we had, or rather thought we ought to have a clerk that was a member of the church and then they elected a man by the name of Sam Clark, he is dead now and after he left he left and went down to Iola, or some place.
Q Well you don't know where Ward went after he left there? A I don't know no more than what he said; said he was going to the Territory.
Q When was that? A That was in '56.
Q How do you know it was in '66? A Because.
Q Does your book say that? A Yes.
Q Your book says Ward had resigned because he was going to the Territory? A No, the book don't say so, but I noticed this in order to find out about the time when Peter Ward left there, I remember; I say it was the 17th day of June, as I stated. It was the 17th day of June and when I found I remembered when looking over it, I noticed that that was the last time Brother Ward was there with us to transact business and it was on the 17th day of June, '66; but he never was with us any more after that in our transactions in the church and of course that give me a very good reason to believe that he came right off because he had been talking of it before.
Q You don't know that he moved at once to the Territory? A I don't know; that is, I don't know what day he left on; I know he never was with us in church meeting after that, and I have always believed he come right straight to the Territory because I never saw him any more; after he had been up there in the neighborhood would have been in the church meetings.
Q You are just imagining that? A I know that because he was a faithful member and never missed.
Q Did your members attend all the time or did some of them backslide? A I could not tell you much about that, because we always has some little back-sliding in the churches and of course we didn't keep track of it all the time.
Q Where was it in Arkansas you saw this fellow? A We met in Mayesville; well, we wasn't well acquainted then as we might have been, but remember when we met here in Kansas that we had met before.
Q Well, where was you living when you met this man at Mayesville, Arkansas? A I was living on Honey creek.
Q In what country? A In the Indian Territory.
Q Are you a Freedman? A I am a Freedman, but I have about give it up because you have took such stand here against us freedmen, and because we lived a little while in Kansas, we could not live here; I have spent about a hundred dollars to get my name on, and did have my name on the Wallace roll and when I come to find it could not find it.

Q Did you get your name on the Kern-Clifton roll? A No, sir, I didn't know when was the proper time, I come too late.

COM'R NEEDLES: Had Peter Ward been talking to you about coming to the Territory? A Yes, sir, he talked it all around there, it was known all over the neighborhood he was coming to the Territory and of course we calculated when he left there that he come to the Territory and I believe that with all my soul.

MR. DAUMPORT: He has been talking to you since you have been down here this time? A We talked a good deal, we always do when we meet; I have been down here several times before since he come, but I didn't meet him after he come down here, I expect it must have been five or six years afterwards. Well, the first time I met him was when I come to get my name on the Wallace roll after he come.

(Application is continued until the witness can send and get the book of which he has been referring.)

Q In giving your testimony a while go when you referred to your church book, is the name of Peter Ward shown in the book on the date you referred to as fixing the date that he last officiated with you at the church? A No, sir.

Com'r Needles: This testimony will be made part of the record in the case at bar and part of the record in D)608, D610, D-611, D-613, D-625, D-615, D-616, D618, D-619, D-621, D-622, D-623, D-625, D-626, D-605.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 5th, 1901.

[Signature]

Commissioner.

File with Cherokee Freedman D-391, Elizabeth Meigs.

Department of the Interior,
Commission to the Five Civilized Tribes,

Vinita, I. T., October 19, 1901.

In the matter of the application of Elizabeth Meigs
et al. for enrollment as Cherokee Freedmen.

Supplimental testimony on behalf of the applicant.

Appearances:

L. T. Brown, agent for applicants;
L. B. Bell, of counsel for Cherokee Nation.

Daniel Sanders, being duly sworn by Commissioner
Needles, testified as follows:

By L. T. Brown:

- Q State your name? A Daniel Sanders.
Q What is your age? A About 59.
Q What is your postoffice address? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear upon the authenticated roll of 1880?
A I think it does.
Q You know Elizabeth Meigs and George Meigs? A Yes sir.
Q What relation is George Meigs to Elizabeth Meigs? A Her son.
Q Did you know Peter Meigs during his life time? A Yes sir.
Q Do you know whether Peter Meigs, Elizabeth Meigs and George
Meigs were out of the Cherokee Nation during the war? A Yes sir.
Q When did they return to the Cherokee Nation? A They came in
'66.
Q With whom did they return? A They came with me and my father
and the Webbers.
Q Have they had a continuous residence in the Cherokee Nation
ever since? A Yes sir.
MR. Bell: When did you come to the Cherokee Nation yourself
after the war? A In '66.
Q What time of the year? A First of December.
Q That was the first time? A Yes sir.
Q When did you make your second trip? A Along in first part
of January.
Q That was January, 1867? A Yes sir.
Q Now which one of these trips was it that Peter and his family
came with you? A They came both times.
Q Came both times? A Yes sir, the old man came the first time
and then the last time the family came.
Q Peter came with you alone the first time? A Yes sir.
Q Then the second time he brought his family? A Yes sir.
Q What did his family consist of? A Mary, George, Alice, Harry,
Simon, and Perry.
Q Them was his children? A Them was his children.
Q Well he had his wife Elizabeth with him, didn't he? A Yes sir

Commissioner: This testimony will be filed and made
part of the record in the case at bar and part of the record in
D-394, D-396, D-398, D-401, D-402, D-404, D-407, D-775.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 7th of November, 1901.

T. B. Needles,

Commissioner.

Lola M. Champlin being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that the same is a true and correct copy of the original testimony.

Lola M. Champlin
.....

Subscribed and sworn to before me this, the 25 day
of June 1906.

Chas E. Webster
.....
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 28th 1901.

In the matter of the application of Abraham Ward et al., C. F. D. #807
SUPPLEMENTAL TESTIMONY

Appearances:

W. W. Hastings for the Cherokee Nation,
Mellette & Smith for the applicants

By Mr. Hastings: I desire to file a certificate from J. A. Gady, County Clerk of Linn County, Kansas, showing that from the Assessment rolls of Mound City Township in Linn County Kansas, for the year 1867, there appears the following: " Peter Ward, one Female dog."

By Mr. Smith: The applicants object to the introduction in evidence of the above mentioned instrument, because it appears from the face that the same is not a certified copy of any record, but a statement of one J. A. Gady, certified to by him, the same not being within the rules of law in this jurisdiction in regard to the introduction of certified copies of records, and not being the best evidence, and for the further reason that the person named therein is in no way identified with the applicant in this case.

By Commissioner C. R. Breckinridge: The document in question will be filed in this case, the objection of counsel for the applicant will be noted and the matter will receive the further consideration of the Commission.

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(COPY)

State of Kansas: ss.
County of Linn:

I, J. A. Gady County Clerk within and for the above named County and State, do hereby certify that I have examined the Assessment rolls of Mound City Township in Linn County, Kansas, for the year 1867 and find that Peter Ward is listed on said rolls as follows: " Peter Ward, one Female dog." said entry is on page 75 of said rolls. Said assessment rolls were filed in the office of said County Clerk on July 1, 1867, and said assessment and list of property owners was taken during the month of March, 1867, and based upon residence of said County for March 1, 1867, by said assessor.

Witness my hand and official seal at Mound City, Kansas, this 28th day of October, A. D. 1901.

(SEAL) (Signed) J. A. Gady
County Clerk of Linn County, Kansas.

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By Commissioner Breckinridge: In the matter of the foregoing alleged certificate of the records of Linn County, Kansas, it is directed that copies of the alleged certificate and the objection to their filing of Counsel for the applicants, be filed in the cases to which this case refers and all subreferences thereto as found upon the records of this Commission.

=====
Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the above proceedings, and that the above copy of the certificate filed in this connection is a true and correct copy of the original, and further that the above is a full and correct transcript of his stenographic notes in said proceedings. *Chas von Weise*

Subscribed and sworn to before me this 5th of November, 1901.

[Signature]
Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Winita, I. T., October 29, 1901.

In the matter of the application of Abraham Ward et al. for enrollment as Cherokee Freedmen.

Additional testimony on behalf of the Cherokee Nation.

Appearances:

Mellatte & Smith, attorneys for the applicants;
W. F. Hastings, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn by Commissioner Neaves, testified as follows:

Mr. Hastings: What is your name? A. A. R. Wayne.

What is your postoffice? A. Mound City, Lynn County, Kansas.

What is your age? A. I am 58 years old.

Q Were you in Lynn County, Kansas, during, and the years immediately after the war? A. Yes, sir.

Q I will ask you if you know a colored man by the name of Peter Ward? A. Yes, sir.

Q Where did you learn to know him at first? A. Four miles and a half west, and one half mile north of Mound City, Lynn County, Kansas.

Q When? A. In 1866.

Q You know whose place he was living on at that time? A. I forget the name of the man at that time, in '66.

Q Do you know where he moved, if at all, in '66? A. He moved to the farm of Amos Durden, and some call it the G. W. Kingsbury place now.

Q Is Kingsbury his grandson? A. Of Durden's, yes sir.

Q How long did he continue to live on the Durden farm? A. 3 years.

Q Now by what do you fix that? A. The first time that I saw him I know where I was working breaking prairie, and I stuck a thorn in my foot right in there, and I stopped and Mrs. Ward said that the gall of a bee was the best thing I could put on it, and by me breaking prairie I knew it was in '66, I know where I was living at that time.

Q How do you fix the next date, three years later, which would make it in '69? A. I have a record of the expenses that I had paid out in May, toward the last of May, from the first of January till the last of May, that me and him had a transaction whereby me I paid him \$2.50.

Q Peter Ward? A. Yes, sir, the second day of March.

Q Of what year? A. 1869.

Q Where was he living at that time? A. He was living on the farm of Amos Durden.

Q Do you know any of Peter Ward's children, sons, members of his family? A. I know one girl and I know Abraham Ward, Clint Ward, I presume his name is Olifton but we all called him Clint, and George; I believe that is all that I can bring to mine now at the present time.

Q Have one by the name of Berry? A. Yes, sir, I think Berry was the second boy.

Q Was there one named Squire Ward? A. Yes, sir, I think there was. You recollect it now? A. Yes, sir, Squire Ward.

Q Where were these children living between the years of '66, when you first knew the father, and '69? A. They were living with their father; the boys of course would work around first one place and another wherever they could find work, but there is where they made their home, with their father.

Q Have you seen them since that time, '69? A. No, sir, I haven't.

Q Do you know whether you would know them or not now? A. No, sir, I can't meet them so often as then what I saw in this other case.

Q Do you know that one over there (indicating Abraham Ward)?
A Yes, sir, I have seen that gentleman over there, but I can't tell you his name; I know by the looks of him I have seen him.
Q You don't recollect to have seen any of them since '69? A No, sir.
Q How far did you live from them say in '69, from the Durben farm?
A About a mile and three quarters.
Q Well now did you live that far from '66 to '69 to them? A No, sir, in '66 I was living farther off.

Q Well, when did you come up nearer to them? A When I got married in '67; I was married in '67 and I was a little bit closer to them.

Q Well, were you as near in '67 as you were in '69? A Same place.
Q You were as near to them in '67 as you were in '69? A Yes, sir, same place.

Q And you remained on the same place from '69 to '69? A Yes, sir.
Q Now during that time, far from '66 up to '69, did you miss Peter Ward or any of his sons away from up there? A No, sir.

Q Did you have occasion to see them from time to time? A Only upon one occasion to my knowledge that I got to see them except just in passing around; I had one transaction that I was ever to their house.

Q Did you see them in the country any place? A Oh yes, I have seen them around.

Q You mean by that, that that is the only time you ever had my personal business transaction with them? A Yes, sir, that is what I mean, personal business transaction.

Mr. Smith: What month in the year 1866 was it you got acquainted with Peter Ward? A Well sir, I can't tell you what month, but then I know it was along in the spring because I was breaking prairie, breaking it with oxen.

Q Did you break any ground except in the spring? A Not the prairie, to my knowledge, I never did.

Q You have been there in that country ever since '62? A I had been there ever since '55.

Q You had been living there some ten or eleven years when you first became acquainted with Peter Ward? A Well, I came there in May '55, and it was '66 when I first recollect getting acquainted with them to know them.

Q Now in what way do you fix the date as in '66 when you first became acquainted with Peter Ward? A I was breaking prairie west of where they lived, and I came up there in regard to my foot; as I said, I had stuck a stub in my foot, and I came up there and Mrs. Ward gave me a piece of bee gall to put on it to draw it.

Q Well, did your foot get well? A Well it isn't off, I suppose it did.

Q Well that has been how long ago? A Well '66; that has been 55 years ago.

Q When did you first have any occasion to remember the matter, or date when you first met Peter Ward, or when was that ever called to your attention first after that time? A For the first time you mean?

Q Yes? A Well it was in March, '69, that I had the transaction with him.

Q That had nothing to do, however, with the time you first met him?

A No, sir, not to my knowledge, no, sir, just seen them from then in passing around.

Q What I mean to say is, the fact that you had the business transaction with him in March or any time in '69 would not aid your recollection as to the time you first met him, would it? A I don't know as I understand your question.

Q I say there was no connection between your business transaction with him in '69 and the date when you first met him, nothing connecting the two things together; one had nothing to do with the other, did it? A No, sir.

Q Well then, now when did you first have occasion to remember that you met Peter Ward in '66? A I just not told the occasion, about

plowing and going up there.

Q I know, but you did a great many things in '66 that you haven't had any occasion to think about since, haven't you? A Yes, sir.

Q What first brought this incident to your mind, that is what I am talking about? A What first brought it to my mind?

Q Yes, or recalled this thing you are talking about in '66? A Well I was asked if I knew a man by the name of Peter Ward.

Q When? A Well I think it was pretty near four weeks ago.

Q Who asked you? A Why I think he was by the name of Keys, J. M. Keys I think, if I am not mistaken.

Q Well now from the time this thing happened up to the time that J. M. Keys asked you about it, you had had no occasion to remember this incident, or the date when you hurt your foot, had you? A No, sir.

Q Now for thirty-five or six years you had carried in your mind the date when you had hurt your foot? A Yes, sir, I know the date by that transaction of breaking prairie, know where I was living.

Q How long did you live there? A At that place, only lived there at that place just one year, working for my brother that year.

Q Now that has been a long time ago, hasn't it? A Yes, sir.

Q Do you think you can swear with certainty it was in '66 and no other time that you met Peter Ward the first time? A Yes, sir, not to my knowledge to know him; I might have met him but not to know him.

Q Do you think you can't possibly be mistaken about the date?

A I know I can't be mistaken in regard to the date of the year.

Q You know that? A Yes, sir.

Q Well now Mr. Wayne, where is your record? A In my pocket in a book.

Q I would like to see that. A (Witness produces book) That record commenced there, January 2, 1869, it goes on down to there, (indicating on book) is Peter Ward, \$2.50; it goes on down to here, to May, '69, \$102.84; I spent during that time \$102.84.

Q When did you commence to keep this book? A Well, I think that book came in my possession in 1868, along in the winter of '68.

Q When did you quit making entries in it? A In regard to my expenses?

Q No, entries at all? A Well I think probably it was away along in the seventies somewhere, might maybe have been late as '78, toward the back there in regard to some Sabbath School records I think, and in that fore part there is some few pages that was in '69, some transactions, and some probably in the seventies somewhere.

Q Mr. Wayne, at the place in this memorandum where the name of Peter Ward occurs, there is no year there, is there? A No, sir, there isn't; there was no occasion for the year when I was keeping the account; you will find here it is entered, and it goes on down here, and here it is March first, and March 2, and goes on down, 9, 11, 12, 13, etc.; there was no occasion for it in keeping the record.

Q Mr. Wayne, what is the entry immediately above the name Peter Ward? A (Reading from book) That there is Ben Branson, a colored man, 25¢; no, it is stamps, 15¢.

Q You are sure that that is stamps? A No, soda, 15¢.

Q Then it isn't stamps? A No, sir, I thought it was stamps, but it is soda instead of stamps; here is stamps below here.

Q Now Mr. Wayne, that line upon which the word, Peter Ward, is written has been erased? A No, sir.

Q Isn't there an erasure on that line? A Not to that knowledge, and I am the only person that has ever had it.

Q Can you read that entry immediately above that Peter Ward, and Peter Ward, as distinctly as you can this entry immediately below it?

A Well there is a part of the Peter there that I can see just the same as I can the other, the same that is below here; here is some oil I believe.

Q That is not the question; are the entries below clearer and more distinct than the word, Peter Ward? A No, sir, not that I

notice till they get way down there, they are about the same.

Q Now then you see there is a part of the Peter that you can read better than the other part? A Well, the t there appears to be a little bit plainer.

Q Can you see any e in that Peter? A Yes, sir.

Q Where is it? A Right after the t.

Q If you didn't know what it was could you tell what the remaining letters after the P were? A Yes, sir, that is my handwriting and I would.

Q Now why, Mr. Wayne, is that word Peter Ward blurred, as it appears upon the record? A I can't tell you any more than here; not a bit.

Q You don't know? A No, sir.

Q Did you write the word potatoes on the second page? A Yes, sir.

Q Did you make that P? A Yes, sir.

Q Is that one like this one? A Yes, sir, that one looks like I didn't make it very plain and I taken it again, same as there (indicating) in writing that down it looks as though I had made two cracks on that, and you will probably find the P somewhere.

Q Now Mr. Wayne, sometimes a P is made with one stroke of the pen? A Yes, sir.

Q Now that P in potatoes is made that way, isn't it?

A No, I don't make a P but very seldom, sometimes I make a P by running down and then back, and sometimes then I make a P by making a straight mark and going around that way (indicating); I make Ps two or three different ways.

Q Now Mr. Wayne, the word Peter there in this book is blurred?

A Yes, sir.

Q It is indistinct? A No, sir, not to my mind it is not.

Q Not as clear as the entries below it? A It is about the same thing here except that P in here, that I see, appears to be a little plainer than that e-t-e-r.

Q Well, do you state that that is as clear as the entries below?

A No, sir, I saw it is not, it is the same as some that would be over here or some other place.

Q Now you didn't use this book since eighteen and what? A Oh I have probably referred to it for some regards in regard to an orchard that I set out, and my little boy that is dead might have got hold of it once, he might have got hold of that book.

Q Where was this book when you were first interrogated about Abraham Ward? A It was in my desk in my room.

Q Did you remember, when you were interrogated as to the time when you had had any business transactions with Peter Ward, without reference to that book? A No, sir.

Q Then you are testifying from that record? A I am testifying from my record in regard to the transaction.

Q Is the record is wrong you are wrong? A Yes, sir.

Q Can you tell me who made the blur, or erasure, if it is an erasure, upon that line upon which appears the name of Peter Ward? A No, sir.

Mr. Smith: If the Court please, I would like to offer the book.

Mr. Hastings: You can't take the book away from the man.

Q Do you want this book any more? A I have some records in regard to some orchards that I would have to have here.

Q If you are willing, we would like to keep it a while in this case, and the commission will return it to you afterwards? A I have no objections, but there is a little paper in there I would like to get out afterwards.

Mr. Hastings: When was this entry made: was it made at the time that it purports to have been made? A Yes, sir, I tried to put them down the night in which they were made.

Q Mr. Wayne, now the page before, or the second page before this entry of Peter Ward, I notice this date: (reading) January 2, 1862-- is that correct? A Yes, sir.

- 8 -

Q Following that are a great many entries and only the month and the day? Is that intended to be that year? A Yes, sir, everything down to May, '89; it talks the date on the opposite page.

Q Opposite page to where you summed it up? A Yes, sir, to where I summed it up here, it is three pages over.

Q Well, between the two pages before this and say three pages afterwards, they contain the transactions of that year of '89? A It does, yes, sir.

Q Mr. Wayne, a good part of this record was kept with pencil, wasn't it? A Yes, sir.

Q Has it ever been erased or mutilated other than by wear? A No, sir, not to my knowledge, unless my little boy might have got hold of it.

Q Well, you never mutilated that name of Peter Ward or erased it?

A No, sir, I wouldn't have any occasion to.

Q Is that in the same condition that you found it when Mr. Keys made the inquiries of you with reference to your knowledge about Peter Ward? A It is exactly the same.

Q No change has been made? A None whatever.

Commissioner: The book testified about will be filed with the papers in the case.

Commissioner: This testimony will be made part of the record in the case at bar, and part in D-603, D-610, D-611, D-615, D-625, D-616, D-616, D-618, D-619, D-621, D-622, D-623, D-625, D-626, and D-605.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he, correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Sworn to and subscribed before me this the 15th of November, 1901.

Madeline M. Moore
Molloy Park
Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F. D 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Amanda Hill, D 625;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decrees of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and perfect transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Amanda Hill, et al. as Cherokee Freedmen, consolidating the applica-
tions of

Amanda Hill, et al.,.....Cherokee Freedmen D 625
Andy Webber,.....Cherokee Freedmen D 959

DECISION.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Amanda Hill for herself and her minor children, Della, Flossie and Sadie Hill, and by Andy Webber for himself. The testimony in the matter of the applications of Abraham Ward, et al. and Daniel Thompson, et al. are made a part of the record herein.

The evidence shows that the applicants, Amanda, Della, Flossie and Sadie Hill, were born since 1866 and are the descendants of Johnson Webber and Margaret Ward; that Andy Webber was born since 1866 and is a descendant of said Johnson Webber and Frances Webber.

The evidence further shows that Johnson Webber and Margaret Ward were the slaves of Cherokee citizens at the commencement of the rebellion; that they were taken out of the Cherokee Nation during the rebellion, but did not return thereto within the time specified, in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee Nation, et al., for the return of freedmen to said nation. It does not appear that the said Frances Webber was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the rebellion. None of the names of the applicants herein are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Amanda Hill, Della Hill, Flossie Hill, Sadie Hill and Andy Webber should be denied, under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,

JUL 23 1904

this

DEPARTMENT OF THE INTERIOR.
FEB 14 1905
Returned with No. 574
Inclosure 4 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.
DEC 8 1904
Returned with No. 233
Inclosure 10 IND. TER. DIV.

1904

the opinion of you how his back can be allowed
your relations would further state
that George & Lucinda kept the former owners of
Francis & Andrew the mother of Andy whether was
Shosone Indians citizen of the nation

Indian Office,

Incl. No. /

54860

Indian Territory Division

AUG 10 1904

Department of the Interior,
RECEIVED

DEPARTMENT OF THE INTERIOR
SEP 19 1904
Returned with No. 7032
Inclosure 5 IND. TER. DIV.

P.O. box 43-

Eng. Sample
SEP 19 1904
Department of the Interior,
Indian Territory Division.

45

DEPARTMENT OF THE INTERIOR,
FEB 14 1905
Returned with No. 790
Inclosure 4 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR,
DEC 8 1904
Returned with No. 12374
Inclosure 10 IND. TER. DIV.

the opinion of you how far such can be allowed.
that Lewis & Lucinda Keys the former owners of
Francis Sanders the mother of Andy whether was
Cherokee Indians citizen of the nation

Mark R.M. Sanders
Direct to Rev R.M. Sanders
P.O. box 43 - Indian 97

Department of the Interior,
RECEIVED
SEP 19 1904
Enc. No. 1
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,
SEP 19 1904
Returned with No. 7052
Inclosure 1 IND. TER. DIV.

Department of the Interior,
RECEIVED
AUG 10 1904
No. 6783
Indian Territory Division

Indian Office,
Incl. No. 54860

1904

Seneca 35 August the 6th 1904

To the hon Sec of the Interior Washington
DC we the undersigned citizens of Big Creek Cherokee
Nation come before you Dist Indian Ter would
most respectfully call your attention to the case
of Andy webber T D No 959 who have been rejected
by the Commission to the five civilized Tribes

on the grounds his mother Francis —
Sanders the wife of Johnson webber was ^{the} not
a Cherokee citizen at the commence of the rebellion

It is not the object of this
petition to annoy ^{you} honorable Sir or to find fault with
the hon Commission Decision who are doing all
they can to right the people

But we your humble
servant would state that Francis Sanders the
mother of Andy & wife of Johnson webber was
the former slave of Levy & Lucinda Keys who
lived 16 miles South East Tahlequah & T in Tahle-
quah Dist. Mr Levy Keys is dead died some
years ago Lucinda Keys his wife is
living on the same old place with Judge
Geo Sanders her oldest Brother Their P O
Address is Wauhillaw & T your petitioners
pray that you will not allow Andy webber to be
deprived of his rights before God & that he be
allowed to produce his mother former mistress
or Judge Geo Sanders as evidence & T in

DEPARTMENT OF THE INTERIOR.
FEB 14 1905
Returned with No. 1596
Inclosure 4 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.
DEC 8 1904
Returned with No. 1237
Inclosure 10 IND. TER. DIV.

the opinion of you hon Sir such can^{be} allowed
your petitioner would further state
that Gevey & Lucinda Keys the former owners of
Francis Sanders the mother of Andy whether was
Cherokee Indians Citizen of the nation

1904

Indian Office,
Incl. No. 5860
9875

Indian Territory Division

No. 6783

AUG 10 1904

RECEIVED

Department of the Interior,

Sanders

Returned with No. 7052
Inclosure 3 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.

SEP 19 1904

IND. TER. DIV.

Direct to Rev R.M. Sanders
P.O box 43 - Centralia IT

Department of the Interior,
RECEIVED
SEP 19 1904
Incl. No. 5860
Indian Territory Division.

54861

Indian Office,

Incl. No.

1904

DEPARTMENT OF THE INTERIOR.

FEB 14 1905

Returned with No. 1596

Inclosure 2 IND. TER. DIV.

Department of the Interior,

RECEIVED

AUG 9 - 1904

No. 6753

Indian Territory Division.

DEPARTMENT OF THE INTERIOR.

SEP 19 1904

Returned with No. 7582

Inclosure 1 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.

DEC 8 1904

Returned with No. 12374

6 IND. TER. DIV.

Centralia I T

August the 6th 1904

To the Honorable Secretary of Interior Washington D.C.
Sir your humble servant. I desire to call your
attention to Cherokee Freedman No. 959. Andy Welher
the son of Johnson Welher & Francis Sanders whom
were the wife of Johnson Welher

In this Petition your humble servant desires to call your
attention to the following fact

first that my Mother belonged to one Levy Keys &
Lucinda his wife who are Cherokee Citizens the said
Levy Keys being dead but his wife Lucinda Keys
is still living on the same old place where my lived
with them before the war up to the Rebellion

Second your humble servant will further state that he
furnished sufficient Evidence according to the Decision
of the Commission to be placed upon the Straight Card which
which Decision is here with Enclosed for your further
Information. if Required your humble servant
Pray to be allowed the Opportunity to Establish the facts
her former owners Lucinda Keys Judge George Sanders
whose post office address is Hawhillaw I T

Anxiously Awaiting a Reply I Remain your
Obedient Servant Andy Welher Centralia I T

74316

Indian Office,

Incl. No.

1904

Department of the Interior,
RECEIVED.

Enc. No. 2 of No. 8837
Indian Territory Division

DEPARTMENT OF THE INTERIOR.
DEC 8 1904
Returned with No. 1237
Inclosure 3 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.
FEB 14 1905
Returned with No. 1590
Inclosure / IND. TER. DIV.

Northern District
Indian Territory.

Personally appeared
before me, A. B. Brewster, a Notary
Public, in and for the district aforesaid,
James M. Keys, whose age is 61 years
Post office address, Pryor, Creek I.T.
Who after being duly qualified
makes the following statement
That He was personally acquainted
with a colored girl named
Francis Sanders. That at the
commencement of the War of
the rebellion she belonged to
Levi and Lucinda, Keys, Citizens
by blood of the Cherokee Nation,
who resided near Wauhillah I.T.
In witness whereof I have hereto
signed my name
This Oct 12th 1904

James M. Keys
Sworn to and Subscribed before me
On the day and date above written
In witness whereof I have hereto
attached my seal

A. B. Brewster
Comm. Exp. Aug. 22, 1906. Notary Public

4316

Indian Office,

Incl. No. 2

1904

Department of the Interior

RECEIVED

Exp. No. 1 of No. 8837

DEPARTMENT OF THE INTERIOR.

DEC 8 1904

Returned with No. 12374

Inclosure 4 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.

FEB 14 1905

Returned with No. 1596

Inclosure 7 IND. TER. DIV.

Northern District }
Indian Territory. }

Personally
appeared before me James M. Keys
a Notary Public in and for the
district aforesaid. Reubin Sanders
who after being duly qualified
makes the following statement
That my age 55^{2/3} Post. office address
Centralia. I.T. I was intimately
acquainted with a colored girl name
Francis Sanders. who afterward
was Francis Webber. She was the
mother of Andy Webber. who on
sides near Centralia. I.T. She
was a sister of myself and Dan
Sanders. and returned to this
country with us. in the fall of
1866 - & at the commencement
of the war of the rebellion in the
United States. she belonged to
Levi and Lucinda Keys. well
known citizens. of the Cherokee
Nation by blood. and resided
with them at that time near
Wau-hil-la. I.T. In witness whereof
I have to sign my name

This Oct 12th 1904

Reubin Sanders

Sworn to and subscribed before
me in the day & date above written

Com. Exp. June 23rd 1906 } James M. Keys.
Notary Public.

74316

Indian Office,

Incl. No.

1904

Department of the Interior,
RECEIVED.

Enc. No. 3 of No. 8837
Indian Territory Division

DEPARTMENT OF THE INTERIOR.

DIC 8 1904

Returned with No. 12374

Inclosed 5 IND. TER. DIV.

DEPARTMENT OF THE INTERIOR.

FEB 14 1905

Returned with No. 1596

Inclosed 6 IND. TER. DIV.



Northern District
Indian Territory

Personally
appeared before me ^{Postmaster} Geo. O. Sanders
~~a Notary Public in and for~~
the said district. Lucinda Keys
agw ~~office~~ office. Address. Wauhila
la. I.T. Who after being duly qual
ified. Makes the following State
ment. I am a Citizen by blood
of the Cherokee Nation. have
resided near Wauhila. I.T.
all my life. with the exception
of the War Period. and a short
time afterward. at the com
mencement of the civil war
in the United States. I owned
a Colored Girl. named Francis
Sanders. a Sister of Dan and
Reubin, Sanders. Said Francis
Sanders. was born and reared
on my Father's Place near
Wauhila I.T. In witness whereof
I have hereto signed my name
This Oct 1904

Lucinda J. Keys

The above statement qualified before
15th day October 1904.

Geo. O. Sanders Pro
Wauhila I.T.



P.O. Sanders being in
his vicinity the
was qualified to
Notary Public
witnessed statement
before me
Geo. O. Sanders

ment. I am a citizen by blood
of the Cherokee Nation. have
resided near Wauhatchie, I.T.
all my life. With the exception
of the War Period, and a short
time afterwards, at the com-
mencement of the Civil War
in the United States, I lived
a colored girl. named Francis
Sanders, a sister of Sam and
Reuben, Sanders, Sallie Francis
Sanders. was born and reared
on my Father's Place near
Wauhatchie I.T. In witness whereof
I have hereunto signed my name
this Oct 1904

Francis Sanders

The above statement qualified before
me this 15th day October 1904.



Geo. O. Sanders Pro
Wauhatchie I.T.

P.S. There being no Notary Public
in the vicinity the within statement
was qualified to before me
Geo O Sanders Pro

BEFORE THE DEPARTMENT
OF THE INTERIOR,
WASHINGTON, D.C.+++++

in the matter of the ap-
plication for the enroll-
ment of Amanda Hill et al,
C.F.D-625, Consolidating
the applications of:

Amanda Hill et al,
C.F.D-625
Aney Weber
C.F.D-959

NOTION FOR REVIEW
OF DECISION AND
RECONSIDERATION OF
CASES.

BILL & BULGER,

Attorneys for
Applicants.

Department of the Interior,
Washington, D.C.

JAN 11 1905

Enclosures 198 75

BEFORE THE DEPARTMENT OF THE INTERIOR
WASHINGTON, D.C.

To the Honorable,

The Secretary of the Interior:

In the matter of the application for the enrollment of Amanda Hill et al, as Cherokee Freedmen, consolidating the applications of:

Amanda Hill et al, ----- C.F.D- 625
Andy Weber----- C.F.D- 959

MOTION FOR REVIEW OF DECISION AND RECONSIDERATION OF CASES.

Come now, by their attorneys, Blue & Bulger, the above named applicants for enrollment as Cherokee freedmen, and move the Honorable Secretary of the Interior to review the decision of the Commission to the Five Civilized Tribes, in the above named cases, dated July 23, 1904, and to reverse said decision and to order said applicants to be enrolled as Cherokee Freedmen, or to remand the above named cases to the Commission to the Five Civilized Tribes for further consideration, for the reasons that said decision of said Commission is contrary to the law governing in such cases, and is not warranted by the facts as shown by the record, and the affidavits of Judge Jim Keys, Lucinda Keys and Judge George Sanders, all Cherokee citizens by blood, and which affidavits have been forwarded to the Department, and have been referred by the Department to the Commissioner of Indian Affairs for proper consideration, as stated in Departmental letter (I.T.D. 8657/04) addressed to Andy Weber, Centralia, Indian Territory, October 21, 1904.

Respectfully submitted,

Blue & Bulger
Attorneys for Applicants.

Service of the above motion accepted, and a copy of the same received by the attorneys for the Cherokee Nation this 25th day of January, 1906, at Vinita, Indian Territory.

Bell Hastings & Davenport,
Attorneys for Cherokee Nation

By..... *J. C. Starr*
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 21, 1906.

SUPPLEMENTAL PROCEEDINGS, had in the matter of the application for the enrollment of ANDY WEBBER as a Cherokee freedman.

APPEARANCES:

For Applicant, Starr & Patten.

For Cherokee Nation, W. W. Hastings and J. S. Davenport.

The records of this office show that on May 7, 1906, this case was remanded by the Secretary of the Interior to permit the applicant and the attorneys for the Cherokee Nation to offer such testimony as they may desire to submit as to whether Frances Webber, mother of the applicant, was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. The records further show that on May 25, 1906, the applicant, his attorneys, and the attorneys for the Cherokee Nation were duly advised of the Department's action, and notified that they would be permitted to appear and introduce such testimony before this office on June 21, 1906, at nine o'clock A. M., at which time the following proceedings were had.

JAMES M. KEYS, being first duly sworn, testified as follows:

BY MR. STARR:

Q What is your name? A James M. Keys.

Q What is your age? A 63.

Q What is your post office? A Pryor Creek, I. T.

Q What is your occupation? A Special Marshal for the Cherokee Nation.

Q Are you acquainted with the applicant Andy Webber? A Yes sir.

Q Are you acquainted with his mother? A Yes sir.

Q What was her name? A Her name was Frances Sanders.

Q Did you know her at the commencement of the war of the rebellion?

A Yes sir.

Q Where did she live then? A She lived on Caney near Tahlequah.

Q Was she a slave at that time? A Yes sir.

Q To whom did she belong? A To my Uncle Levi Keys and Lucinda, in fact she belonged through his wife.

Q Did she belong to these people at the commencement of the war of the rebellion? A Yes sir.

Q Were they Cherokee citizens at the commencement of the war? A Yes sir.

BY MR. HASTINGS:

Q Was Andy Webber born since the war? A I don't know to my personal knowledge, but judging from his looks I think he was.

Q Do you know anything about the return of Frances? A Nothing.

Q When did you first see her after the war? A I never saw her after the war, I have no recollection of ever seeing her after the war.

- Q All you know about Andy being her son is what he claims? A Yes sir.
- Q You are only testifying as to the ownership of Frances Sanders?
- A Yes sir.

WITNESSES EXCUSED.

REUBEN SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A Reuben Sanders.
- Q What is your age? A 55, I don't know my age exactly.
- Q What is your post office? A Centralia.
- Q What is your citizenship? A I am an 1880 roll Cherokee citizen.
- Q Cherokee freedman? A Yes sir.
- Q Are you acquainted with the applicant Andy Webber? A Yes sir.
- Q Were you acquainted with his mother? A Yes sir.
- Q What was her name? A Frances Sanders, sometimes she went by, but after she married she became Frances Webber.
- Q Did you know her at the commencement of the war of the rebellion?
- A Yes sir.
- Q To whom did she belong? A She belonged to Keys as near as I can recollect, Levi Keys and Lucinda.
- Q Was Levi Keys a citizen of the Cherokee Nation at the commencement of the war? A Yes sir.
- Q What became of Frances Sanders at the beginning of the war? A She went to Kansas.
- Q When did she return after the war? A She returned with us in August.
- Q What year? A '66.
- Q Where did she come to? A Big Creek where we now live.
- Q Big Creek in the Cherokee Nation? A Yes sir.
- Q Did she do anything in the way of making improvements at that time? A Yes sir.
- Q What did she do? A Built the wall of a house, at least she had us to do it.
- Q Did she after that continue these improvements? A Yes sir.
- Q What did she do afterwards in the way of building these improvements? A We completed the house for her.
- Q What relation is Frances Sanders to you? A She is my sister.
- Q Who else was with you at the time you came in August, 1866? A There was quite a number of others with us, my brother Dan, some of the Whitmires, the Majors and others.
- Q Did she build this house for the purpose of making it her home at that time? A Yes sir.

BY MR. HASTINGS:

- Q Was she the only woman in the crowd? A No sir.
- Q Did you come down there in wagons? A Yes sir.
- Q You afterwards then went back to Kansas? A Yes sir.
- Q Where was this house built? A It was built there near where I am living now.
- Q On Big Creek? A Yes sir, it is on Big Creek.
- Q How far from the mouth of Snow Creek? A Well Big Creek is about 15 miles from Snow Creek country, east and south of there.
- Q What became of the house? A The house is there now.
- Q The house is still there? A Yes sir.
- Q Who lives in it now? A I owned part of it since that time, I own the place where the house was.
- Q Who filed on the land? A I filed on it since that time.
- Q Who is living in the house? A Nobody never did live in the house.

- Q No one never lived in the house? A No sir, she lived with us.
Q The house just rot down? A No sir, the house aint rot down.
Q You said no one never lived in it? A I said no one didnt live in the house, she never lived in the house, she lived with us until she married. She didnt use the house afterwards.
Q She never lived in the house at all? A No sir.
Q No one never lived in the house at no time? A No sir.
Q The house out in the middle of the field? A It was her place. We made the place for her, she was a member of our family and she lived with us.
Q How old was she when the war closed? A I don't know.
Q Had she any children before the war? A I don't know whether she did or not, I don't recollect.
Q You don't remember whether she had any children at the close of the war? A She had a child or two after the war.
Q You don't remember whether she had any children when you come down here? A I think she had one child when she came down here.
Q You don't remember as to that? A Yes sir.
Q What is its name? A His name was John O'Neil, but he is dead.
Q Did she have a husband then? A No sir.
Q Where was John O'Neil born? A He was born in Fort Scott.
Q How old was he when she came down here? A I don't know.
Q About, your best judgment? A Why he was a baby.
Q Could he walk, talk, or was he nursing? A I think he could walk around some.
Q Did she have any other children? A Not to my knowledge at that time.
Q Well after you started the foundation and started the house you went back to Kansas? A Yes sir.
Q Did she marry in Kansas? A No sir, not in Kansas.
Q Did she ever marry here? A Yes sir.
Q Well you all came back here about the last of February or first of March following that did you? A We came back along in the winter.
Q Well the following February, the last of February? A We came along in January as near as I can remember is when we came back.
Q Didn't come until after Christmas? A It was along in January when the snow was on the ground.
Q I say it was after Christmas? A Yes sir, it might have been after Christmas, but it was in the winter.
Q You and the Whitmires come along close together? A No sir, not at that time.
Q They come a little ahead of you? A No sir, they didn't come with us at that time. There were several crowds of us came.
Q That is then you moved down here was it? A We moved down here in January.
Q Well where was the Whitmires when you left up there? A The Whitmires had been down here, they come in a gang to themselves.
Q They moved their families just ahead of you? A No sir, I don't know that they did.
Q Well now how many years after you came down the following spring before Frances came? A Frances came with us.
Q That following spring? A No sir, it was in the winter.
Q You testified in the Aaron webber case didn't you? A No sir.
Q You testified in the Elizabeth Meigs case, F. D. 391? A Yes sir.
Q You married one of the Meigs? A Yes sir.
Q You testified about them searching your wagons on the trip as you came down here? A Yes sir.
Q You said there was considerable excitement up there, and that your wagons were searched; that a fellow named Hayford was killed. You said they searched your wagons up there for Mackey the fellow that killed him? A Yes sir.
Q And you said the country was up in arms when you were moving your family? A Yes sir.

- Q You said there was lots of wagons with you on that trip? A It was my family at that time, went back at that time and was moving my family.
- Q You didn't think to tell that on the stand before? A I corrected that, I told you how that was.
- Q You didn't make that correction when you were on the stand before did you? A I told you when we were coming back they were living down here at the time, that they were living down here at the time of that killing.
- Q Now how many of you were along there when they were searching your wagons for Eli Mackey? A Myself, and the women I brought with me and Peter Meigs and George Meigs and the ~~old~~ man named Henry Hare and Abe Thurman.
- Q That was all along with you at the time they searched your wagons? A There was some women along in that crowd at that time.
- Q What women were along? A Their wives.
- Q Now when was that? A That was along in sometime in March or February, sometime along about that time. It was after we had come down here.
- Q When were you first married? A I married sometime perhaps about '67.
- Q What time in 1867? A I don't know exactly what time.
- Q What month? A I suppose it must have been along in the winter of '67.
- Q You don't know then what month it was? A No sir.
- Q You don't know the day of the month? A No sir, it was along in '66, the last part of '66.
- Q You are certain as to that? A Yes sir, I am certain it was sometime in '66, it must have been when I married.
- Q Haven't you previously testified that you married in 1867? A I don't know as I have. I haven't got no marriage license.
- Q Where was you married? A I was married on Big Creek. I was married in Fort Scott, that is the place.
- Q Why did you say Big Creek? A I was just mistaken, I was married in Fort Scott.
- Q Who married you? A A man by the name of parson Brown.
- Q Did you get any license there? A Yes sir, I had ----
- Q Who did you marry? A A woman by the name of Mag Johnson.
- Q That was her name then? A Yes sir, I believe that was her name.
- Q Was pan sanders married when you come down here? A Yes sir.
- Q Where was he married? A I don't know.
- Q Was he married in Kansas or the Cherokee nation? A I don't know where he got his woman, she was around with him in the army.
- Q Did he bring her down here with him? A Yes sir.
- Q With whom did Frances live after you come down here? A She lived in a house with her parents, her mother polly sanders and her father wike sanders.
- Q She didn't have any husband then? A No sir, not then.
- Q But she had this child John O'Neil? A Yes sir.
- Q Whatever became of that child? A He died.
- Q How long after you come down here? A I don't know.
- Q Was he alive when you come? A Yes sir.
- Q Buried down here? A Yes sir.
- Q How long did he live after he come here? A He lived to be a young man after he came here.
- Q Did she marry after she come down here? A Yes sir.
- Q Who did she marry? A Johnson Webber.
- Q How long after she come? A I don't know how many years.
- Q Who married her? A I don't know.
- Q You say this house they started was never completed and nobody never lived in it? A It was completed, but nobody never lived in it. She had no occasion to live in it.
- Q Never was lived in? A No sir.

- Q Was your first wife a state raised woman? A Yes sir.
- Q You had married that first wife before your folks come down here?
- A No sir,--Yes sir, I had married her before we came down here.
- Q And before your folks moved down here? A Yes sir, I had been sleeping with her before then.
- Q Had you married her? A I married her shortly afterwards.
- Q You married her after that time? A I married her about that time.
- Q Now I want to know if you married her before your folks moved down here? A Yes sir.
- Q How long did you remain down here before you went back after your wife? A Until about, along in as near as I can recollect, along in February or March is when I went back.
- Q Who went back with you? A Uncle Peter Meigs and George Meigs. They were the two that went back with us.
- Q The only two? A Yes sir.
- Q Who else went back of your family? A No one else of my family at that time.
- Q You have never gave any testimony in this case before? A Not to my knowledge.
- Q You ever have any children by this woman? A Yes sir.
- Q When was your oldest one born? A Born in about '67.
- Q What is its name? A Rosa.
- Q Rosa what, is she alive? A Rosa Sanders.
- Q She has never been married? A Yes sir.
- Q She has been enrolled? A Yes sir.
- Q Where was she born? A In Kansas. Now that child was born before I married that woman, I got the child before I married the woman.
- Q What time of the year was she born? A Must have been born in about August.
- Q Born in Kansas? A Yes sir.
- Q It was after that time you moved her and her mother down here?
- A Lets see,--the child was born, as near as I can think I moved the mother down in March.
- Q You moved her down in March after the child was born? A Yes sir, in march after the child was born.
- Q You said the child was born in ~~the~~ Kansas? A I haven't just got the date of the child now.
- Q You know whether the child was born in Kansas? A Yes sir.
- Q It was the next March you moved the mother down? A I moved her down sometime along in march, '67, or sometime about February, about that time.
- Q Well that was February or March after the child Rosa was born?
- A Well, it wasn't----
- Q Don't talk about years, I am talking about the date of the birth of that child? You know whether or not the child was born before you moved the mother down here? A It was in August.
- Q I am not asking you about August, September, October or November? Was that child born in Kansas as you testified? A The child was born,--No sir, I am mistaken as to its being born in Kansas, she was born here, Rosa was.
- Q Is that the oldest child you had by that woman? A No sir.
- Q What is the other one? A Josephine.
- Q Is she now living? A No sir.
- Q How long ago? A A good many years ago.
- Q Did she live to be a grown woman? A No sir, died when she was a child.
- Q Where was she born? A She was born in Kansas. Rosa she was the one born at the time I speak about.
- Q Rosa was born? A No, Josephine

- Q Josephine was born in Kansas? A Yes sir.
- Q How long before you come down here in August? A Well I don't recollect. Rosa is the one that was born on Big Creek.
- Q I have departed from that to new fields, I am asking you about where and when Josephine was born? A Josephine was born in, must have been born in August, '66.
- Q Was she born before you come down here? A Yes sir, that was our child.
- Q Was it by this same woman that you afterwards married? A Yes sir.
- Q You swear that? A As near as I can recollect as to dates.
- Q I am not asking you about dates, I am asking you if ~~that~~ that was your first child by this woman, and if it was born in Kansas? A I won't positive say as to my recollection that it was born in Kansas.
- Q Do you mean to tell the Commissioner that you don't know where your first child was born? A I mean to say Rosa was my child born in the Territory after I come down here.

On Behalf of the Commissioner: You answer his question as well as you can.

- Q I am asking you where your oldest child was born by this same woman, that is the mother of Rosa? You have now stated that it was Josephine, now where was she born? A Josephine was born in Kansas.
- Q How old was Josephine when you moved her mother here? A Josephine she died when she was a baby, she may have been two or three months old.
- Q I am asking you to tell me about how old Josephine was when you moved her mother down here? A I don't know exactly.
- Q Did you bring Josephine here? A Yes sir.
- Q About how old was she when she died? A I suppose she was two or three months old when she died.
- Q Where was she buried? A On Big Creek.
- Q What month was she born in? A I don't recollect, I haven't got the date down, don't know what month.
- Q You don't know anything about the month of the birth of your first child? A No sir.
- Q How long after you come here before Rosa was born? A Rosa was born along in about '67, sometime I guess.
- Q What time in the year? A I don't know exactly what time in the year.
- Q Was it in the early part of the year or the last part of it? A I think it was sometime maybe along in the middle of the year.
- Q In June? A I would not say positively.
- Q What is your best judgment? A I just haven't got no best judgment.
- Q Do you know what month you were married in now? A No sir, I don't recollect what month.
- Q And you don't know what month neither of your first two children were born? A No sir, I haven't got it down, I don't recollect now.
- Q Did you have any child to die in Kansas? A No sir.
- Q Did you have any other child to be born in Kansas except Josephine? A No sir.
- Q Were you and Josephine's mother married at the time Josephine was born? A No sir.
- Q Did your brother Dan have any children when he come down here that he brought with him? A I don't think he did, I don't know.

BY MR. STARR:

- Q You say you lived with this woman Maggie sometime before you were married to her? A Yes sir.
- Q Was this child Josephine born before you married this woman? A Yes sir.
- Q What was the occasion of you going to Fort Scott with Peter Meigs and George Meigs? A I went back after her and they went back to get some provisions.
- Q Went back after who? A I went back after Maggie and they went back after some provisions and some things.
- Q Well now when was it that Frances Sanders came back to the Cherokee Nation after she went to Kansas in 1866? A She came in January with us when we came.
- Q Did she make a trip down here before you went up there after this wife? A The first time was in August and the next time was in January, and she didn't go back after this time.
- Q Was she here when you went back after your wife? A Yes sir, here, living at that time on Big Creek.
- Q Was anything happened in Fort Scott when you went back there with Peter and George Meigs? A Just before we got back there Eli Mackey killed that fellow and skipped out.
- Q Was that the time you said they searched your wagon? A Yes sir.
- Q At that time Frances Sanders was living in the Cherokee Nation? A She was on Big Creek at that time.
- Q Do you remember the circumstances of the killing of Dyer Hafford? A Yes sir, I recollect it.
- Q Where was Frances Sanders living then? A Here at that time.
- Q Did she ever go back to Kansas after that? A Not to my knowledge.
- Q Always lived here until her death? A Yes sir.

BY MR. HASTINGS:

- Q How far did you live from Whitmires in Kansas? A They lived two or three miles from us.
- Q You knew them there? A I knew some of them, yes sir.
- Q Which ones did you know? A I knew Lewis and Mose.
- Q Had they come down here? A I don't know, they didn't come when I did.
- Q You knew whether they had left Kansas or not? A No sir, I don't know, I lived in town and they lived in the country.
- Q But you knew whether they were down here below you on Big Creek? A No sir, I don't.
- Q You asked when they come? A No sir.
- Q You don't have any idea when they came? A I have an idea when they say they come.
- Q You never kept any particular account of the dates? A No sir.

ON BEHALF OF THE COMMISSIONER:

- Q What relation are you to Frances Sanders? A She was my sister.
- Q Did she come to the Cherokee Nation the first trip you did? A Yes sir, in August, she cooked for us while we worked.
- Q You state she went back to Kansas then in the winter and returned? A In September is when we went back.
- Q She went back with you? A Yes sir.
- Q Did she come back to the Cherokee Nation at the time you did? A Yes sir, she came back in January.
- Q This is the first time you have ever testified in this case? A Yes sir.

BY MR. HASTINGS:

- Q Your last marriage was to a Meigs? A Yes sir.
- Q Daughter of old Peter Meigs or George? A Peter.

BY MR. STARR:

- Q How long did you live with this first wife after you married her until you married the Meigs woman? A I think she died in '72, I think as near as I can recollect.
- Q And you have since married the Meigs woman? A Yes sir.

WITNESS EXCUSED.

DANIEL SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A Daniel Sanders.
- Q What is your age? A 62.
- Q What is your post office? A Centralia.
- Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
- Q Do you know his mother? A Yes sir.
- Q What was her name? A Frances.
- Q Frances ~~xxx~~ what? A Keys, I guess, she belonged to Mrs. Keys.
- Q Did you know her at the commencement of the war of the rebellion? A Yes sir.
- Q Was she a slave? A Yes sir.
- Q Who did she belong to? A Lucinda Keys.
- Q Was Lucinda Keys a citizen of the Cherokee Nation at the commencement of the war? A Yes sir.
- Q Did Frances go out of the nation during the war? A Yes sir.
- Q When did she return to the Cherokee Nation after the war? A In '66.
- Q Who did she come with? A With my father and me and Reuben. and several others.
- Q What time in 1866? A Along in August.
- Q Where did you come to? A Over on Big Creek.
- Q How long did you stay on Big Creek at that time? A Stayed there and built a foundation of my house and made some boards and covered one house.
- Q Did Frances Sanders have any improvements made on the public domain at that time for her? A Yes sir.
- Q What was it? A About an eight log house.
- Q Did she come back to Kansas after that? A Yes sir, we all went back.
- Q How long did you stay? A Stayed there until the last part of December.
- Q Did she come back again? A Yes sir.
- Q Where did she come to at that time? A To Big Creek where we live now.
- Q Has she lived in the Cherokee Nation all the time continuously until now? A Yes sir, until her death.
- Q When did she die? A She died in, if I mistake not, in '83.
- Q Did she own any improvements from August, 1866, afterwards? A Yes sir, that old residence that is there now, it is part of my mother's old place.
- Q Were the improvements continued on that place at that time? A Yes sir all in the filed now.
- Q Was the house completed? A Yes sir.
- Q This woman is the mother of the applicant Andy Webber? A Yes sir.

BY MR. HASTINGS:

- Q What time did you come back down here when you moved? A In January, I don't know just the exact dates.
- Q What time in January, the first? A Sometime in January, there was snow on the ground.

- Q Did you come from Fort Scott? A Come from Fort Scott, I was living at Fort Scott.
- Q Was that the trip your wagon were searched? A No wagons were searched in my attachment.
- Q Did the Whitmires come with you? A Not at that time, not all of them.
- Q Who all did come at that time of the Whitmires? A At that time it must have been old man Mose Whitmire.
- Q He come with you did he? A I think old man Mose and Lewis.
- Q And Moses and Lewis Whitmire come when you came here in January of 1867? A Yes sir.
- Q You know what family Mose have with him at that time? A No sir.
- Q Was Lewis? A No sir.
- Q Were they married? A Mose was married but I don't think Lewis was.
- Q Did any other Whitmires come with you at that time? A No sir.
- Q Was that the time you brought Frances? A Yes sir.
- Q And Reuben was along that time was he? A Yes sir, lets see, I think Reuben was.
- Q Was he along the time you brought Frances? A Yes sir.
- Q Did the Whitmires come in wagons? A Some of them.
- Q Well Lewis and Mose? A Yes sir.
- Q Was there any others besides them? A I don't know whether Dennis was in that outfit right then or not.
- Q Did they come on down below you on Big Creek? A They come and went back.
- Q Did they come on down below you then? A Yes sir, and then when they come they moved in the settlement they lived.

Mr. Starr: Comes now the Attorneys for the applicant and insists that this witness be examined in this case, and then if the nation desires to call the other witnesses it can do so.

BY MR. HASTINGS:

- Q Where were you married? A I was married in Linn County, Kansas.
- Q When, what year? A '62.
- Q Where was Reuben married? A I think he was married at Fort Scott.
- Q When? A I think it was along in '67, I think.
- Q What time in the year 1867? A I don't know, I wasn't at the wedding.
- Q Was he married when you and him come down here with Frances? A No sir, not at that time.
- Q How long after that was it before he married? A He married along, I don't know just exactly what time, but it was along in the spring?
- Q About how old was Reuben when you first came down with Frances?
- A I don't know just exactly his age, but he was about grown.
- Q But he had never been married up to that time? A No sir.
- Q But that he afterwards married? A He married old man Meigs daughter.
- Q Was that his first wife? A No sir, second wife.
- Q Who was his first wife? A Her name was Maggie.
- Q Maggie what? A Frazier if I aint mistaken.
- Q Did he have any children by her? A One.
- Q What was its name? A Rosa.
- Q Was Rosa the only child he had by her? A No sir, I think he had one or two, the others died.
- Q Was Rosa the oldest child? A The oldest child, one of the other two may have been older than her.
- Q Where was his first child born? A I don't really recollect, I couldn't answer that.
- Q Well was it born in the Cherokee Nation? A I expect it was, I couldn't say.
- Q Well now did Frances have any children when you came down here?

- A Yes sir.
- Q How many did she have? A One.
- Q What was its name? A John O'Neil.
- Q How old was it when you come down here? A It was a bab , I don't know just how old it was.
- Q It wasn't a year old? A No sir, I don't think he was.
- Q Had Reuben ever lived with anybody as his wife before you come down here with Frances in January, 1867, as you stated? A No sir.
- Q Then this Maggie was the first woman he ever lived with? A Yes sir.
- Q And that was in the spring after you came down here? A Yes sir.
- Q Did you know his wife before you came down here? A Just had seen the woman.
- Q Did you have any children when you came down here in January with Frances? A No sir.
- Q None at all? A No sir.
- Q You have testified in this case before have you? A I think I testified before.
- Q You are the same dan Sanders aint you? A I think so.

BY MR. STARR:

- Q Dan did Reuben live with this Maggie before they were married, do you know anything about that? A No sir, if he did, I didn't know it.

BY MR. HASTINGS:

- Q You never heard of it? A No sir.

WITNESS EXCUSED .

GEORGE O. SANDERS, being first duly sworn, testified as follows:

BY MR. STARR:

- Q What is your name? A George O. Sanders.
- Q What is your age? A 69 years.
- Q What is your post office? A Wauhatchie.
- Q What is your citizenship? A Cherokee by blood.
- Q Are you acquainted with Andy Webber, the applicant in this case? A No sir.
- Q Did you know Frances Sanders, his mother? A Yes sir.
- Q Did you know her at the commencement of the war of the rebellion? A Yes sir.
- Q Was she a slave? A She belonged to my sister.
- Q She was a slave of your sister? A Yes sir, give to her by my father.
- Q What was your sister's name? A Lucinda J. Keys.
- Q She was a citizen of the Cherokee Nation at the commencement of the war of the rebellion? A Cherokee by blood.
- Q Did you ever see Frances Sanders after the war? A Not after the war, up to the war I knew her as a slave of my sister.
- Q Did you see Daniel Sanders and Reuben Sanders any time immediately after the war? A In 1866 I think at Fort Scott, Kansas I saw them.
- Q What were they doing there? A They were in the act of moving to the Territory.

- Q What time in 1866? A Probably in October, '66.
Q What were they doing there? A Why I don't know suppose they were general residents.
Q Were they at that time making preparation to moving to the Cherokee Nation?

Mr. Davenport: Objected to as incompetent, irrelevant and immaterial and a declaration in the interest of the applicant.

On Behalf of the Commissioner: The objection will be noted.

A So far as I was informed.

BY MR. DAVENPORT:

- Q You know nothing about what preparation they were making of your own knowledge? A No more than what they told me.
Q I say of your own knowledge you know nothing about what preparation they were making? A No sir.
Q And they were there at Fort Scott in 1866? A Yes sir.
Q What time of the year? A I think it was in October, if I remember right.

BY MR. STARR:

- Q Had they been to the Cherokee Nation at that time when you saw them there? A They informed me that they had located claims, and was just then preparing to move.

Mr. Davenport: We object to what they told him and move to strike it out of the record on the ground it is hearsay.

On Behalf of the Commissioner: The objection will be noted.

WITNESS EXCUSED.

REUBEN SANDERS RECALLED by Attorney for the Cherokee Nation:

BY MR. HASTINGS:

- Q I believe I asked you awhile ago if you knew where the Whitmires were when you came down here with Frances, did I not? A I don't recollect.
Q To refresh your memory, don't you know you said you didn't know, that you lived in town and they lived in the country? A Yes sir, I recollect that.
Q Did any of the Whitmires come with you when you brought Frances? A Aaron Wright moved with us.
Q Was he the only one of the Whitmires that came with the crowd? A That is the only one I had any knowledge of at that time.
Q You knew Lewis and Mose? A Yes sir.
Q Did they come? A I don't recollect of them coming.
Q Well do you know? A I would not positively say.
Q Do you deny they come? A No sir, I don't deny that they come with us.
Q You are the same Reuben Sanders who at Vinita, on May 22, 1901, gave some testimony in the matter of the application of Elizabeth Meigs for enrollment as a Cherokee freedman? A I was there but I don't just recollect what year it was.
Q You gave some testimony in that case? A Yes sir.
Q Did any of the Whitmires come with you when you came here in August? A I don't recollect but seems to me like they did.
Q Do you remember now? A I don't just positively state that they came here with us in August. It appears to me like some of them did.

- Q But you are not certain about that now? A No sir, I would not positively say they did.
- Q You say then that Peter Meigs didn't bring his family until after he went back and came back the next time? A No sir, not at the time I speak, Peter Meigs brought his family at the time he moved in January.
- Q What did he go back for? A After provisions and some things he had left. His family was here at that time.
- Q Didn't you at the same time that you are testifying about say that your father didn't bring his family down here; that he didn't bring them in August, 1866? A His family, what I mean by his family was all the children.
- Q Was Frances his daughter? A Frances was his daughter, and Nancy was his daughter. My mother was at Fort Scott.
- Q Didn't you then in answer to another question say that you brought your family here in October? A No sir, I haven't no knowledge that I made that statement.
- Q Well did you come down here any more after you were here in August before you come in January? A Yes sir, we came once in October. Just three days travel from where we lived to come down here.
- Q Did you live up there right close to where Dan lived when you come down here? A Yes sir.
- Q You and Dan lived together? A Yes sir, we lived together.
- Q And had lived together from the close of the war up until the time you come down here? A Well I don't know about that, whether we had or not.
- Q Why don't you know it? A Well he wasn't fight with us all the time, he had a family.
- Q You lived in the same town? A Yes sir.

W I T N E S S E X C U S E D .

Mr. Hastings: For the purpose of impeaching the witnesses, Dan and Reuben Sanders, the Cherokee Nation asks that the testimony in the case of Elizabeth Meigs, Freedman Doubtful 391, being the case in which they testified, be introduced and made a part of the record in this case.

Mr. Starr: To which applicant objects for the reason that it is lugging into this case a great bulk of testimony, and that applicants were not present to cross-examine the witnesses in that case.

Mr. Hastings: The Cherokee Nation insists upon the right to introduce this for the reason that these two witnesses, Dan and Reuben Sanders, made statements under oath in that case which the representatives of the Cherokee Nation say are inconsistent and contradictory of the statements made under oath today.

On Behalf of the Commissioner: In view of the Department's ruling in the Cherokee Freedman case of Catherine Mix of May 21, 1906 (I.T.D. 9556-1905), the request of the Attorneys for the Cherokee Nation that the testimony taken in the Cherokee Freedman enrollment case of Elizabeth Meigs will be denied as to the testimony taken of all witnesses except Daniel and Reuben Sanders. These two witnesses being present this day, their testimony taken in connection with the Elizabeth Meigs case will be filed with and made a part of the record in this case.

DANIEL SANDERS RECALLED by Attorney for the Cherokee Nation:

BY MR. HASTINGS:

- Q Are you the same Dan Sanders who testified at Nowata on June 29, 1901, in the matter of the application of Columbus McNair for the enrollment of his wife, Chaney? A Yes sir.
- Q Are you the same Dan Sanders that on June 28, 1901, at Nowata testified before the Commission in the case, Freedman doubtful 644, being an application of Joshua Holt, et al., to be enrolled as freedmen citizens of the Cherokee Nation? A Never testified in that case.
- Q Did you testify in the Mary Johnson case? A Yes sir, Anderson Johnson, yes sir.
- Q You are the same party who testified in that case, are you? A Yes sir.

Mr. Hastings: For the purpose of impeaching this witness the representative of the Cherokee Nation ask that the record show what final disposition has been made of these two cases, namely, Freedman doubtful 964, being that in the matter of the application of Chaney McNair, and that of Freedman doubtful 864, being in the matter of the application of Mary Johnson, being the cases in which the witness Dan Sanders has acknowledged to have previously testified.

Mr. Starr: To which request of the Cherokee Nation the applicants will have no objection if the final disposition by the Secretary of the Interior be shown in these cases.

On Behalf of the Commissioner: The records of this office show that the Cherokee Freedman enrollment cases of Chaney McNair, F D 964, and Mary Johnson, F D 864, have not been finally decided, being now pending before the Secretary of the Interior.

Mr. Hastings: For the purpose of impeaching the witnesses, Reuben and Daniel Sanders, who has testified in this case, the representatives of the Cherokee Nation desire to offer in evidence from the original records of the Cherokee Nation taken before what was known as the "Chambers Court" or Commission on Citizenship in the year 1878 the following: First the application and statement of Lewis Whitmire, vs. The Cherokee Nation, dated June 26, 1878, found on pages 164, book B, Citizenship Record, and also the application of Moses Whitmire, vs. The Cherokee Nation, found in the same record beginning on page 165, and also the record, being No. 60, of Aaron Whitmire, vs. The Cherokee Nation, found in book A, page 239 to 247 inclusive.

Mr. Patten: Attorney for applicant objects to the introduction of this record in evidence in this case upon the ground that it is irrelevant and immaterial because ~~this~~ it is testimony given by witnesses in an entirely different case and before a different court, and for the further reason that the applicant in this case was not present as shown by the records and could not have cross-examined the witnesses whose evidence is sought to be introduced, and for the further reason that Lewis Whitmire is now living and his testimony in person would be the best evidence, and no reason is shown why it is not introduced, and that if it was introduced, this would give the applicant the right to cross-examine.

Mr. Bixby, Commissioner: I think I will over-rule the objection and let the record be introduced.

Mr. Starr: To which ruling the applicant excepts.

Mr. Hastings: I request that the ruling of the Commissioner a few moments ago relative to the disposition of the cases of Chaney McNair and Mary Johnson show that they have been refused by this office and is now pending before the Department.

Mr. Bixby, Commissioner: I think it is sufficient to let it stand as it is. I will have to deny your request Mr. Hastings!

Mr. Hastings: To which ruling the Attorneys for the Cherokee Nation excepts.

Mr. Hastings: For the purpose of impeaching the witness, Dan Sanders, the Cherokee Nation offers in evidence the decision of the Commission, dated March 16, 1905, denying the application of Chaney McNair to be enrolled as a freedman citizen of the Cherokee Nation.

Mr. Starr: To which applicant objects for the reason that the records show that this case is pending before the Department of the Interior and has not been finally denied by the Department of the Interior, and would not tend to impeach the witness until it is finally decided by the Department of the Interior.

On Behalf of the Commissioner: The motion of the Attorneys for the Cherokee Nation will be denied.

Mr. Hastings: To which ruling the Cherokee Nation excepts.

Mr. Hastings: The representatives of the Cherokee Nation offer in evidence the decision of the Commission to the Five Civilized Tribes rejecting the application for the enrollment of Mary Johnson, et al., F D 864, for the purpose of impeaching the testimony of Dan Sanders, who has admitted to have testified in that case.

Mr. Starr: To which Attorneys for applicant objects for the same reason as made to the last motion made by the Attorneys for the Cherokee Nation.

On Behalf of the Commissioner: The request for the introduction of said decision will be denied.

Mr. Hastings: To which ruling Cherokee Nation excepts.

By agreement between attorneys for Cherokee nation and applicant, this case will be closed and a decision rendered on the evidence heretofore introduced.

-----COs-----

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 10th day of July, 1906.

Geo. H. Lessley
Chas. H. Nelson
Notary Public.

F. D. 959

In the matter of the applica-
tion for the enrollment of
Andy Webber as a Cherokee
Freedman.

Motion to strike ~~out~~ from the
record copies of the affidavits
and statements of witnesses taken
from the so called Chambers
Court.

Starr Patten,
Attys for Applicant
V. Mita I T

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

OCT 15 1906

COMMISSIONER

F. D. 959

In the matter of the applica-
tion for the enrollment of
Andy Webber as a Cherokee
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FILED

OCT 15 1908

COMMISSIONER

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

Motion to strike ~~xxx~~ from the
record copies of the affidavits
and statements of Witnesses taken
from the so called Chambers
Court.

Starr & Patten,
Attys for Applicant

Verita I T

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Motion.

Cherokee Freedman D 959

In the matter of the application for the enrollment of Andy Webber as a Cherokee Freedman.

Motion.

Comes now the applicant, by his Attorneys Starr & Pasten, and moves that the following copies of parts of the proceedings of the Chambers Court etc introduced in this case for the purposes of impeaching witnesses Daniel and Reuben Sanders be stricken from the files in this case:

First "The Application and statement of Lewis Whitmire, Vs The Cherokee Nation dated June 26, 1878 found on pages 164 Book B Citizenship record "

Second: "The application of Moses Whitmire, Vs The Cherokee Nation, found in the same record beginning on Page 165"

Third: The Record being no 60, of Aaron Whitmire Vs the Cherokee Nation, found in Book A, pages 239 to 247 inclusive."

Argument in Support of Motion.

The Attorney for the Cherokee Nation offered these records in the case in the following language: to wit,

"For the purpose of impeaching the witnesses, Reuben and Daniel Sanders, who has testified in this case, the representatives of the Cherokee Nation desire to offer in evidence from the original records of the Cherokee Nation taken before what was known as the Chambers Court or Commission on citizenship in the year of 1878 the following: First, the application and statement of Lewis Whitmire, Vs the Cherokee Nation, dated June 26, 1878, found on pages 164, book B Citizenship Record, and also the application of Moses Whitmire Vs the Cherokee Nation found in the same record beginning on Page 165, and also the record, being No 60 of Aaron Whitmire Vs the Cherokee Nation, found in Book A, Page 239 to 247 inclusive."

To the introduction of which we entered then and there an objection but our objection was then and there overruled.

We were not permitted to examine these records at the trial because the Attorney for the Cherokee Nation had these records in his own office and positively and absolutely refused to permit us to see them and all we were able to see of them were the headlines of the records while he was introducing them or offering them in evidence. He was afraid to let us ~~see~~ look at the book for fear we might see some place, somewhere in that book where one of our clients had been adjudged by that court entitled to citizenship in the Cherokee Nation and had now been denied and our examination of that record might inure to the benefit of some poor person whose case might be benefitted by things contained therein.

We objected to the introduction of this record at the time because we believed from a general principle of law that affidavits of witnesses ~~introduced in this case~~ and statements of witnesses other than Daniel and Reuben Sanders in another entirely different court and in an entirely different proceeding are not admissible in this case to impeach these two witnesses.

When we received a copy of the testimony in this case we read for some time the affidavits and affidavits from the so called records of the Cherokee Court we were able to see and there were affidavits taken of some of the witnesses in a case that was tried in the Cherokee Court and also the statement of some of the persons who were applicants to that court and nowhere do we find any statements introduced from the records of that so called Court where Daniel and Reuben Sanders testified in that case nor is there introduced in this case from the so called Cherokee Court records any statement in that case made by Daniel and Reuben Sanders which is alleged to be contradictory to the statements now made. Certainly affidavits of other witnesses in another case and statements of other parties are not admissible as impeaching evidence against Daniel and Reuben Sanders.

There is said to be these cases tried in the Cherokee Court the affidavits, (Ex parte so far as we are concerned and so far as by

concerning this case) of Mike Fields, Bluford Alberty Mose Whitmire and these appear to have been statements purporting to have been made under oath and have been written down by the Clerk D. L. Nicholson and two of them are signed by mark and no witness to the mark except that this same D. L. Nicholson seems to attest where Mose Whitmire signed. If the Nation wanted Mike Fields, B. W. Alberty and Mose Whitmire in these cases why did the Nations Attorney not call them instead of bring in in these affidavits and burdening this record with them in violation of the Departmental ruling in the case of Catherine Mix et al; Payton Martin et al both of which are Cherokee Freedmen enrollment cases.

In so far as these affidavits are concerned and these statements made for Moses Whitmire in a Cherokee Freedmen case before the Chambers court by his Attorney we certainly can not be bound in any way by them; we were not there to cross examine them; we had no business there, we were mere children then and the rights of this applicant were not called in question in that case, in that court or at that time and these ex parte affidavits and statements are certainly foreign to the case at bar.

Our right to cross examine these witnesses certainly can not be brought in question.

McKelvey on Evidence Sec. 245 Page 332, Says:

"The right of cross examination of a witness is a very important means toward bringing out the truth of the facts testified to. Every witness is subject to cross examination"

Mr Elliott in his work on Evidence Vol 2 Section 393 says:

"After a witness has been called by one party and has given his testimony, the opposite party has a right to cross examine him."
See Notes 12 L R A 693;

In the case of Cole Vs People, 2 Lans (N Y) 370, we note the following:

"Where a party without his own fault, neglect or consent, lost the opportunity to cross examine a witness examined by the opposite party, the testimony of such witness given on the direct examination should be stricken out."

In Greenleaf on Evidence (16th Ed) Vol 1 P 570 Sec 445 we find:

"When a witness has been examined in chief, the other party has a right to cross examine him."

In Kissan Vs Forrest 25 Wend 651, we find the following language used:

"If a witness dies after he has been examined in chief, and before his cross examination, it has been held that his testimony is inadmissible."

We might go on and cite cases by the hundreds, the law books and reports of decisions of the courts of the land are full of these decisions and it is clear that these affidavits of Mike Fields, Blueford Alberty and Hose Whitmire should not be introduced as testimony in this case; they belong to another case in another proceeding, in another court concerning a matter to which the applicant was not a party and in a court that had no jurisdiction to render a decision that would in any manner bind this applicant Andy Webber. This court had no jurisdiction or authority to decide any freedmen case much less to render a decision that would affect in any manner the rights of Andy Webber who was not a party to the proceedings.

If the Attorney for the Nation wanted to introduce the testimony of these witnesses whose affidavits he seeks to get in the record in this case why did he not bring the witnesses in and put them on the stand so we could cross examine them and ascertain their means of knowledge of the facts about which they attempt to testify. The National Nation makes no excuse for his failure to produce these witnesses. We have seen cases where applicants attempted to introduce testimony before the Department on ex parte affidavits and this same Attorney for the Cherokee Nation actually fought the air in his briefs and arguments against such practice and now we find him resorting to the very same practice himself. "Oh Consistency thou art a jewel"

But to make bad matters worse we find among the papers the National Attorney wants made a part of the record in this case statements made, no under oath even, by W. P. Doudinot as Attorney for Lewis Whitmire and Hose Whitmire before the Chambers court. These statements not even made by Lewis White Mire and Moses Whitmire but made by their attorney for them. Not even made under oath. such a proposition?

We are certainly entitled to the right to cross examine Moses Whitmire and Lewis Whitmire on these statements they made to this Chambers Court "BY W. P. BOUDINOT." We are entitled to have them put under oath if they want these statements considered in a case and then when they swear to these statements then we are entitled to cross examine them. Why are they not brought before the Commissioner now and their testimony taken in the case just as we are required to do if we want testimony taken on part of the applicant in the case? No excuse is given why they are not produced? No reason is given? It is not shown by what authority W. P. Boudinot had when he made these statements; it is not shown that they are the statements of Moses and Lewis Whitmire; it is not shown that these persons ever saw these statements or that they ever knew that W. P. Boudinot made them or that they ever read them before they were filed with this Cherokee Court which had no jurisdiction in the case it sought to try and determine?

These statements by W. P. Boudinot, and not by Moses and Lewis Whitmire, and not made under oath are certainly not admissible for any purpose in this case.

Now lets see what Counsel for the Cherokee Nation puts them in for:

"MR. HASTINGS: FOR THE PURPOSE OF IMPEACHING THE WITNESSES, REUBEN AND DANIEL SANDERS, WHO HAS TESTIFIED IN THIS CASE, THE REPRESENTATIVES OF THE CHEROKEE NATION DESIRE TO OFFER IN EVIDENCE FROM THE ORIGINAL RECORDS OF THE CHEROKEE NATION TAKEN BEFORE WHAT WAS KNOWN AS THE CHAMBERS COURT OR COMMISSION ON CITIZENSHIP IN THE YEAR 1978 THE FOLLOWING: Here he described the records he wants introduced, which we learned when we got a copy of them afterwards turned out to be this stuff which we have referred to to wit: Three ex parte affidavits in some other case filed in a Cherokee Court and the statement of Lewis and Moses Whitmire made by counsel W. P. Boudinot for them and not even sworn to.

All of this has been brought in here now and this record numbered and it is for no other purpose as Mr. Hastings says (ver innocent?) than "For the purpose of impeaching the witnesses, Reuben and Daniel Sanders, who has testified in this case."

The only possible statement that would be admissible in this case for the purpose which Mr Hastings says he offers these affidavits and statements made by Atorney not under oath, would be former statements of Daniel and Reuben Sanders which would be contradictory to the statements they now make and the method for introducing such statements are plainly laid down in Greenleaf on Evidence, Elliott on Evidence, McKelvey on Evidence and all other standard Authorities on Evidence. 974
Quoting from Elliott on Evidence Vol II Sec 975, 976 and 977 we find the rule of testimony that applies to this case well settled:

"976. Impeachment By Proof of inconsistent or contradictory statements made out of Court--Laying the Foundation. --- The mode most

frequently resorted to in the impeachment of a witness is by proving that he made statements out of court inconsistent with or contradictory to what he has sworn to on the trial. In order to do this the proper foundation must be laid by asking him if he made such a statement, and, to give the witness full opportunity to understand all of the circumstances, so as not to be taken off his guard, his attention must be directed to the time and place and person to whom or in whose presence the statement was made. But this rule is to be given a practical application, and it is sufficient if the time, place, person, and substance of the statement are designated with reasonable certainty, so that the witness will clearly understand the matter and not be misled. Indeed, it is sometimes impracticable to fully and specifically state all these matters, and, in such cases, if the attention is clearly called to the alleged conversation or statement, and circumstances are so detailed, that there can be no misunderstanding, it will be sufficient, even if time, place and person are not all fully and specifically designated. If a witness being interrogated as to whether or not he was at a certain time and place made certain statements, replies that he does not remember whether he did not, or where he refuses to answer at all to the question no further foundation for impeachment is necessary, and proof of the alleged contradictory statements may then be introduced. But there are a few authorities that hold that such evidence is not admissible if he says that he does not remember or has no recollection of the matter."

"975. Impeachment by Contradictory statements continued--Writings.

A witness may also be contradicted by proof of a written statement inconsistent with or contradictory to the one made on the witness stand during the trial of the cause, but the proof of the written statement must generally be made by producing the writing or a certified copy of it. A mere opinion expressed by a witness inconsistent with a fact testified to by him can not be given in evidence to impeach his credibility. But inconsistent acts and conduct as well as inconsistent statements may be shown in a proper case. The testimony of a witness at a former trial is frequently introduced for the purpose of impeaching him and there is no doubt that a witness may be contradicted and impeached in a proper case and in a proper manner. The rules already stated, as well as the rule hereafter stated in the next section, generally govern, and the same principle is applied to impeachment by proof of statements on preliminary examinations, coroner's inquests, and in depositions, affidavits and various other documents of a similar character"

"976

Contradictory statements in writing--Manner of Impeachment.

Where the contradictory statement is in writing, and it is intended to impeach the witness thereby, the attention of the witness should be called to the contradictory part, and, usually, the writing must be shown to him and he must be asked if he wrote it or made such statements. The rule in England is thus stated by an English Writer: "a witness under cross examination (or a witness whom the judge has permitted to be examined by the party who called him as to previous ~~written~~ statements inconsistent with his present testimony) may be questioned as to previous statements made by him in writing or reduced to writing relative to the subject matter of the cause, without such writing being shown to him (or being proved in the first instance); But if it is intended to contradict him by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of contradicting him."

"§77 Contradictory Statements must be relevant and not collateral. The contradictory statements alleged to have been made by the witness to be impeached and on which he has been cross examined, must be material and relevant to the issues presented by the trial; proof of contradictory statements which are immaterial and collateral or irrelevant is not competent to impeach the witness. If a party seeking to impeach a witness cross-examines him in regard to a matter which is irrelevant, immaterial and collateral to the issues on trial, such party is, as a general rule, bound by the answers of the witness, and can not introduce evidence to disprove them" etc etc etc.

In Greenleaf on Evidence, Vol I Sections 461e; 461f and 462 practically the same rule is laid down.

Under the rules of Evidence as laid down by these eminent authorities it is clear that only contradictory statements made by Daniel and Reuben Sanders themselves could be introduced in this case by complying with the rules of evidence as herein laid down. But the rules of evidence have not been complied with and the testimony of Daniel and Reuben Sanders in the Helms case has been put in this case over our objection at the request of the Attorney for the Cherokee Nation and has not laid the foundation therefor nor complied with any rule of evidence whatever and we insist on our objection made in the record to the introduction of that testimony ~~also~~ also.

Under the mere pretext of impeaching our witnesses Daniel and Reuben Sanders the Attorney for the Cherokee Nation brings in statements of Moses and Lewis Whitmire, by Attorney, not under oath, and ex parte affidavits of Mike Fields, Blueford Alberty and Moss Whitmire. These are no former contradictory statements made by Daniel and Reuben Sanders and they are in this case in violation of the Departmental letter dated June 20, 1906 D C 25868, remanding for rehearing the Cherokee Freedmen Enrollment case of Payton, Martin et al.

Now is the time to call a halt to this plan adopted by the Attorney for the Cherokee Nation "TO DODGE THE DEPARTMENTAL RULINGS" by saying that he wants testimony from various and sundry cases injected into

thereby the witness thereby the attention of the witness should be
before the confidential statement is in writing and it is intended to
-4-

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this case under the mere pretext of taking affidavits from some other case, and statements for some other applicant made by Attorney and not even signed by them and not even sworn to by them, a part of the record in this case under the alleged theory of impeaching Daniel and Reuben Sanders when in truth and in fact he uses that term for a dodge and attempts to get statements made in these various and sundry affidavits and statements not sworn to in evidence in this case to help him make out the case. This practice ought to be stopped and we believe that the Department will put an end to it. If this practice is permitted the ruling of the Department in the Catharine Mix case and in the Peyton Martin case will be violated at every trial under the pretext of taking affidavits out of some other case and introducing them in these cases to impeach somebody. Affidavits of witnesses who have never testified before the Commission or its successor the Commissioner to the Five Civilized Tribes.

For these reasons we submit that our motion to strike out the testimony referred to we submit, should be sustained.

respectfully,

Starr & Patten

Attorneys for Andr. Weiber.

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss.

Proof of Service.

J. C. Starr of lawful age, being duly sworn, says that he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered to W W Hastings at Muskogee I T, as shown by the receipt of the postmaster hereto attached. Which said postoffice is shown ~~by the records of the Attorney for the Cherokee Nation~~ to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this

10th
~~23rd~~

day of

Oct
~~Sept~~

1906.
~~1905~~

Commission Expires Dec. 4, 1909

J. C. Starr
Notary Public.

Cherokee Freedman D 959.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES .
MUSKOGEE, I. T., NOVEMBER 22, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of ANDY WEBBER as a Cherokee Freedman.

APPEARANCES:

For Applicant, Starr & Patten.

For Cherokee Nation, W. W. Hastings.

JERRY FIELDS, being first duly sworn, by John E. Tidwell, a
Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Jerry Fields.
Q What is your age? A 65.
Q What is your postoffice? A Muskogee.
Q Indian Territory? A Yes sir.
Q Are you acquainted with Andy Webber, the applicant in this case?
A Yes sir.
Q How long have you known him? A Nearly for 45 years, the family.
Q I mean Andy? A Ever since he was born.
Q What was the name of his mother? A Frances Sanders.
Q What was the name of his father? A Johnson Webber.
Q How long have you known Johnson Webber? A About the same
length of time, forty years I guess.
Q Where did Johnson Webber and his wife Frances live during the time
you knew them? A On Big Creek.
Q In the Cherokee Nation? A In the Cherokee Nation four miles
east of Coody's Bluff.
Q Did they live together as husband and wife until the time one
of them died? A Yes sir.
Q Did you live near them at the time Andy Webber was born? A Yes
sir, very near, off and on until Andy was ten or twelve years
old.
Q Was Frances and Johnson living together as husband and wife at the
time of the birth of the applicant, Andy Webber? A Yes sir.
Q Do you know when they were married? A I don't remember just
exactly the date when they married.
Q Where were you living at the time they were married? A I was
at Tahlequah.

- Q Did they live together continuously after that as husband and wife until Frances died? A I never heard of them being parted. I would see them together.
- Q Were they recognized in the community in which they lived as husband and wife? A Yes sir.
- Q They held each other out to the community as husband and wife, did they? A Yes sir, no dispute about that.

BY MR. HASTINGS:

- Q You know when Andy Webber was born? A Well, as near as I can remember he was born in 1876.
- Q Who told you that? A I was old enough to remember that much; nobody didn't have to tell me that.
- Q What year is this? A This is 1906.
- Q How long ago was 1876? A Thirty years ago.
- Q Where were you living then? A When he was born?
- Q Yes? A I was living at Tahlequah. My home was Tahlequah.
- Q How far from Big Creek? A Well, it must be 80 or 90 miles, but my father lived there and I often visited him.
- Q But you lived 80 or 90 miles distant? A Yes sir.
- Q You had never lived any nearer to his parents after the war than that, and before the birth of Andy? A No sir, I hadn't never lived no closer than that before the birth.
- Q When did you move upon Big Creek? A Well I didn't just move there, I went there and stayed with them. I went up there in '78 or '79 and stayed a year, sometime.
- Q Do you know when Johnson died? A He died since I come down here.
- Q About how long ago was that? A I can't remember just how long since he died.
- Q Ten or fifteen or twenty years, or five or four? A It must be ten or fifteen years ago.
- Q How long has his mother been dead? A His mother has been dead to the best of my knowledge about twenty four years.
- Q You don't know then when Johnson and Frances commenced living together as husband and wife? A I know pretty well about the time.
- Q Had they ever been previously married, either of them? A I don't know how they married.
- Q You don't know whether a Preacher married them or not? A No sir, I don't know that. I know they lived together as man and wife.
- Q Had they ever been living with anybody else, either of them, as husband and wife. Had Frances ever lived with any other man? A Not as I know of.
- Q Had she ever had any children before Andy was born to her? A She had two before that.
- Q By what name did they go? A Went by the name of Martin,---one by Martin and one by O'Neal.
- Q Did their reputed fathers live up in that country? A Don't know anything about their fathers.
- Q You don't know whether she was married to their fathers? A No sir, she was never married to them.

- 3 -
- Q Well you don't know, do you? A I never heard of it. She was my own sister and if she was married, I don't know it.
- Q Do you know whether Johnson was ever married before? A I think so, because he has a daughter older than Andy.
- Q What became of his first wife? A She died.
- Q When? A I don't know.
- Q Was she dead when he took up with and began living with Frances, the mother of Andy? A She died before that, but I don't know just when she died. I remember her family.

ON BEHALF OF THE COMMISSIONER:

- Q Is Johnson Webber living now? A No sir, he is not.
- Q How long has he been dead? A I don't remember just exactly the number of years he has been dead.

(Witness excused).

AMANDA HILL, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Amanda Hill.
- Q What is your age? A 40 years old.
- Q What is your postoffice? A Vinita.
- Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
- Q Are you related to him? A Yes sir.
- Q What relation are you? A Brother.
- Q You mean he is your brother? A Yes sir.
- Q A full brother? A Half brother.
- Q What was your mother's name? A Margaret Webber.
- Q What was your father's name? A Johnson Webber.
- Q What was Andy Webber's mother's name? A Frances Webber.
- Q Now is your mother dead? A Yes sir.
- Q When did she die? A I don't know, I was quite small then., I don't remember my mother at all.
- Q Was she dead before Johnson Webber married Frances? A Yes sir.
- Q How long after she died until Johnson Webber married Frances? A I don't remember anything at all about that.
- Q Did Johnson Webber and his wife Frances, who was Frances Sanders, live together as husband and wife from the time you can recollect about the matter until her death? A Yes sir.
- Q Was Andy Webber born while they were living together as husband and wife? A Yes sir.

BY MR. HASTINGS:

- Q You don't know anything about the marriage of Johnson and Frances? A No sir, I don't know anything about that. My grand-mother had me until they married and then I went and lived with them until she died.

- Q Was Frances ever married before? A No sir, not that I ever knowed of.
- Q Did she have some children? A Yes sir, she had a couple of children, boys.
- Q You don't know whether she had been married to the father of these children or not? A No sir, I don't know about that.
- Q Was Johnson ever married except to your mother? A No sir, not as I know of. I just know he married my mother and there was two children of us.
- Q You were born since the war? A Yes sir.

(Witness excused).

JERRY FIELDS RECALLED:

BY MR. STARR:

- Q Where were you living in 1870, and 1871? A In the town of Tahlequah, Cherokee Nation.
- Q Did you see Johnson Webber down there at any time while you were living there? A Yes sir, right there to my house.
- Q What was he doing there? A He went before that Daniels Court to prove their citizenship.
- Q Made an application to that Court did he, or was he summoned? A Went there with an application before the Court.
- Q Is this Johnson Webber, who is the father of the applicant, Andy Webber, the same Johnson Webber that you speak of coming to Tahlequah and making application to the Cherokee Court? A The same Johnson Webber.
- Q What Court was that? A It was the Daniels Court to my best remembrance.
- Q Who was the Judge? A Judge Robert Daniels.
- Q He was one of the Judges? A Yes sir, he was one of the Judges.

BY MR. HASTINGS:

- Q Were they receiving applications for the enrollment of freedmen at that time? A They told me as he come down to my house, that they all come there,--had their certificates and I seen some of them.
- Q Were they receiving applications for the enrollment of Cherokee Freedmen at that time, that Court? A Yes sir.
- Q They were hearing their cases? A Yes sir.
- Q They were hearing the cases of all those who wanted to appear before the Court at that time? A There was, yes,--a certain Court, the Webbers and Sanders,---
- Q Now you answer me, when one of those Cherokee freedmen wanted to apply, they heard his application? A Yes sir.
- Q And they heard their testimony? A Yes sir.
- Q And they passed upon the case? A Yes sir.

- Q And you claim among a great number that were there Johnson Webber was one of them? A Yes sir, Johnson Webber was one of them and his father and my father and brothers.
- Q They were there? A Yes sir, all came in the same wagon.
- Q And this Court heard the application of those people who wanted to apply? A Yes sir.
- Q They received their application and heard their testimony? A Yes sir.
- Q And they passed upon their cases? A Yes sir.
- Q What is your postoffice? A Muskogee.
- Q You live right here do you? A No sir, not here.
- Q Where do you live? A I live west of here.
- Q But your postoffice is here? A Has been but I am moving it to Taft.
- Q Do you know whether there is any other Johnson Webber ever in that country? A I never have heard of another one,--just like my name Jerry Fields, never heard of another Jerry Fields in the Cherokee Nation.
- Q Could there have been another Johnson Webber up there without you knowing it? A I don't believe they could.
- Q You think this man, who is the father of Andy, was down there and applying for citizenship? A I know the man and knowed him well, yes sir.
- Q Now were any of those people that come down there and wanted to apply, did they let or allow all of them to apply,---that is heard their cases? A I never heard of any objections.
- Q Now you live about eight miles west of here? A Yes sir.
- Q You lived right then in Fahlequah? A Yes sir.
- Q And you continued to live there awhile after that? A Yes sir.
- Q How long? A Quite awhile.

(Witness excused).

By agreement between the Attorneys for Applicant and the Cherokee Nation, this case was here continued for further hearing until December 7, 1906.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 18th day of December, 1906.

W. H. Ravinus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, December 5, 1906.

In the matter of the application for the enrollment of Andy
Webber as a Cherokee freedman, (Cher. F. D.- 959).

APPEARANCES:

For Applicant, ----- In person, and by Starr & Patten,
Attorneys.

For Cherokee Nation, ----- W. W. Hastings, Attorney.

COMMISSIONER.

Witnesses on behalf of the applicant.

George Meggs, after having been duly sworn by B. P. Rasmus,
a Notary Public, testified as follows:

BY MR. STARR:

- Q. What is your name? A. George Meggs.
Q. What is your age? A. I couldn't tell you -- about 60 I guess
Q. What is your post office address? A. Wimer.
Q. Are you acquainted with the applicant, Andy Webber? A. Yes
sir.
Q. How long have you known him? A. Ever since he was born.
Q. Were you acquainted with his father? A. Yes sir.
Q. What was his name? A. Johnson Webber.
Q. What was his mother's name? A. Frances Webber.
Q. Do you know whether Frances Webber and Johnson Webber were
married? A. Yes sir.
Q. How do you know it? A. I was there when they got married.
Q. Where were they married? A. Up on Big Creek, in the bottom.
Q. Who married them? A. Preacher Adams.
Q. Was he a minister of the Gospel? A. Yes sir.
Q. Was he in charge of a church? A. Yes sir.
Q. Who was present at that marriage? A. I don't know. They got
married just after 3:00 o'clock service.
Q. In the church? A. Yes sir.
Q. The house was full of people? A. Yes sir, it was a shed in
the bottom.

- Q. Was that before the birth of Andy Webber? A. Yes sir.
Q. Do you know when it was? A. No sir, I don't.
Q. Did Johnson Webber and Frances Webber live together as husband and wife in that community after that? A. Yes sir.
Q. Did they live together till one of them died? A. Yes sir.
Q. Which died first? A. Frances.
Q. Andy Webber was born while they were living together as husband and wife? A. Yes sir.

CROSS EXAMINATION.

MR. HASTINGS:

- Q. Was Frances ever married before? A. I think she was.
Q. Had she some children when she and Johnson were married? A. Yes sir.
Q. How many? A. One, to my judgment.
Q. Do you know how many times she had been married before? A. No sir.
Q. What was that child's name? A. Osa.
Q. Osa what? A. I couldn't tell you that. We just called him Osa.
Q. Was Johnson ever married before? A. Yes sir.
Q. To whom was he married? A. A woman they called Margaret.
Q. Did he have any children by her? A. Yes sir, -- lets see --
Q. Do you have any idea about the time that Johnson and Frances were married? A. No sir, I ain't.
Q. About how many years after the war was it? A. I couldn't tell you that.
Q. Do you know one year from another? A. I guess I ought.
Q. I am asking you if you do? A. Why yes sir.
Q. Could you give us anything like an estimate of how many years ago Johnson and Frances were married? A. It has been about 35 years ago I guess.
Q. About how many years after the war was that? A. I couldn't tell you that.
Q. As many as 10? A. I couldn't tell you -- to say to tell you the truth.
Q. 15? A. I couldn't tell you that.
Q. 20? A. I couldn't tell you that.
Q. You have no idea at all about that? A. About the only idea I have about that was that I was there when they were married.
Q. Was that man Adams a white man or a colored man? A. He was a Delaware man, and had charge of a colored church there in the bottom.
Q. Do you know when Andy Webber was born? A. No sir, I don't know when he was born, but I seen him 2 or 3 days after he was born.
Q. Was his father and mother living together then? A. Yes sir.
Q. Where? A. On Big Creek.
Q. Did they keep house up there? A. Yes sir.
Q. Near what present post office was that place on Big Creek, where they were married? Is there any post office near there now? A. There wasn't any there then, but Wimer is near there now.
Q. How far from Wimer? A. About 6 miles I guess -- between 5 and 6 miles.
Q. Who was Frances' former husband? A. I wasn't acquainted with him.
Q. You don't know what became of him? A. He died, I think.
Q. Did he die after Frances and Johnson were married? A. No, before.

- Q. What became of Johnson's first wife? A. She died.
Q. When did she die? A. I couldn't tell you that.
Q. Did she die after Frances and Johnson were married? A. Before.
Q. How do you know that? A. I was there when she died.
Q. Were you there when Frances' husband died? A. No sir.

MR. STARR:

- Q. You say Johnson was married before he married Frances? A. Yes sir.
Q. Did he have any children by his first wife? A. Yes sir.
Q. What are their names? A. I would have to kinder study on them. Lou and Mandy I think.
Q. Mandy Hill? A. Yes sir.

Witness excused.

Miles Winchester, being first duly sworn by B. P. Rasmus, a Notary Public, testified as follows:

MR. STARR:

- Q. What is your name? A. Miles Winchester.
Q. What is your age? A. I don't know my age.
Q. What is your post office address? A. Centralia.
Q. Are you acquainted with the applicant, Andy Webber? A. Yes sir.
Q. How long have you known him? A. I have been knowing him ever since he was a little fellow -- when he was a baby.
Q. Did you know his father? A. Yes sir.
Q. What was his name? A. Johnson Webber.
Q. Did you know his mother? A. Yes sir.
Q. What was her name? A. Frances Webber.
Q. Were they married? A. Yes sir.
Q. How do you know? A. I was at the wedding.
Q. Where were they married? A. Down in the bottom at the church.
Q. Who else were present at the wedding? A. I couldn't tell you who all. They had meeting and there was quite a congregation.
Q. Did that happen before Andy Webber was born? A. Yes sir.
Q. Were they living together as husband and wife at the time Andy was born? A. Yes sir.
Q. Did they live together as husband and wife until one of them died? A. Yes sir.
Q. Which died first? A. Frances.

CROSS EXAMINATION.

MR. HASTINGS:

- Q. How long did you know Johnson before? A. I don't know exactly how long, but I knew him quite a while.
Q. Are you a citizen? A. No sir, I ain't a citizen.
Q. Where did you come from? A. Fort Scott.
Q. Were you living down there when Johnson and his wife were married? A. Yes sir.

- Q. When was that? A. I can't tell you just what date it was, for I ain't no scholar.
- Q. Can you read and write? A. I can make out to sign my name, but I can't know no dates. They have been married something about like 35 years.
- Q. Who told you that? A. Nobody told me that. It has been quite a while.
- Q. That never was discussed? A. No sir.
- Q. How long did you know Frances before she and Johnson were married? A. I knew her -- I couldn't say how long, but I knew her quite a while -- ever since I come to Fort Scott -- I seen her there.
- Q. She never was married before she married Johnson Webber? A. Not as I know of. I couldn't tell you that.
- Q. She never had any children? A. I couldn't tell you that.
- Q. Did you know her before she and Johnson were married? A. Yes sir.
- Q. You knew her well? A. Yes sir.
- Q. You never knew her to have any children before she and Johnson were married? A. I couldn't tell you particularly about that, but I think there was a boy there, and I think that was a boy that she called her son.
- Q. Did Johnson have any children by some other woman? A. Yes sir.
- Q. What was his first wife's name? A. I think her name was Margaret.
- Q. What became of her? A. I think she died.
- Q. Where? A. On Big Creek.
- Q. How long before he married Frances?? A. I couldn't tell you that.
- Q. Did she die before or after he married Frances? A. Before.
- Q. Who married Johnson to Frances? A. Adams, a Delaware man.
- Q. How many years after the war was it? A. I couldn't tell you. It was about 35 years or something like that.
- Q. After the war? A. No, I don't know that it was 35 years after the war.
- Q. That is what I am asking you? A. I couldn't tell you that.
- Q. Your best judgment? A. Well, I will say 25 years, or something like that.
- Q. After the war? How long after the war was it? A. I say I couldn't tell you exactly.
- Q. Your best judgment? A. I will say anyhow about 35 years ---
- Q. 35 years after the war? A. No, it couldn't be that long.
- Q. I am asking you how many years after the war this marriage took place? A. I don't know -- I couldn't say.
- Q. Who told you it was about 35 years? A. Nobody. I just know it was.
- Q. How come you to come here as a witness? A. I come because I know Andy Webber.
- Q. Who asked you to come? A. Andy Webber.
- Q. Didn't you and Andy Webber ever talk over the fact of his mother's marriage? A. No sir.
- Q. Didn't you and Meggs talk it over? A. No sir.
- Q. Didn't you discuss it with Andy's attorneys? A. No sir, I never seen them till after I come to the meeting. He never said nothing to me about it last night.
- Q. Did he this morning? A. No sir.
- Q. How did you come to say 35 years ago? A. I just suppose it was. I am no scholar, and I don't know no dates.
- Q. How many years after the war was it? A. I tell you I am no scholar, and don't know no dates.
- Q. How can you date the years back from now when you couldn't from the war forward? A. I am just making a guess.

- Q. Were you ever convicted of anything? A. No sir.
Q. Never were tried? A. No sir. I can prove that.
Q. That is one thing you do know, is it? A. Yes sir. I have no date on that, but I know it.

Witness excused.

Andy Webber, being duly sworn by B. P. Rasmus, a Notary Public, testified as follows:

MR. STARR:

- Q. What is your name? A. Andy Webber.
Q. What is your age? A. About 30.
Q. What is your post office? A. Centralia.
Q. Are you the applicant in this case? A. Yes sir.
Q. What was the name of your father? A. Johnson Webber.
Q. What was the name of your mother? A. Frances Sanders.
Q. Are they living now? A. No sir.
Q. Which one died first? A. My mother.
Q. When did she die? A. About 18 or 20 years ago to the best of my knowledge.
Q. When did Johnson die? A. He died afterwards.
Q. Was Frances living with Johnson at the time she died? A. Yes sir.

Witness excused.

MR. STARR:

We ask that the records be examined to see what they show relative to this matter.

Commissioner:

By agreement of the Attorneys for applicant, and Attorney for the Cherokee Nation, this case will be continued to December 6, 1906.

Eula Jeanes Branson, being duly sworn, states that she reported the proceedings had in the above numbered cause on the 5th. day of December, 1906, and that she has correctly transcribed her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me, this the 19th. day of December, 1906.

Edward Merrick
Notary Public.

Cherokee Freedman D 959.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., DECEMBER 7, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of ANDY WEBBER as a Cherokee Freedman.

APPEARANCES:

For Applicant, STARR & PATTEN.

For Cherokee Nation, W. W. HASTINGS.

LEWIS CRITTENDEN, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Lewis Crittenden.
- Q How old are you? A 69.
- Q What is your postoffice? A Hayden.
- Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
- Q What was the name of Andy Webber's father? A Sam Webber,-- you mean Andy's father?
- Q Yes? A Johnson Webber. Sam was Johnson's father.
- Q What was the name of Andy Webber's mother? A Frances.
- Q Was Frances and Johnson married? A Yes sir.
- Q Was Johnson Webber ever called before what was known as the Daniels' Court? A Yes sir, Johnson was at the Daniels' Court, the time I was.
- Q Was he called there on the question of his right to citizenship in the Cherokee Nation? A Yes sir. We went down there before the Court to prove our rights. That was what they called us there for.
- Q What Court was that? A It was the Bob Daniels' Court. Mr Bob Daniels was Commissioner at that time.
- Q Now this Johnson Webber who you say is the father of Andy Webber, was that the same Johnson Webber that was called before the Daniels' Court? A It was the same Johnson Webber.
- Q What was done with him by that Court, do you know? A I don't know what was done with his case. I was a witness for Johnson's father at the Court before Mr. Bob Daniels and the rest of the Commissioners.
- Q They tried his case did they? A Yes sir, they tried old man Sam Webber's, the father of this Johnson.

BY MR. HASTINGS:

- Q Johnson was just a boy then? A He was a young man.
Q Wasn't hardly grown yet? A Oh, he was a grown man. He wasn't no boy but he was with his father.
Q Did you testify in Johnson's case? A I testified in his father's case.
Q Well then they were trying freedmen citizenship cases then, were they? A Yes sir, the Court was trying cases of that kind; started in to try cases of that kind.
Q And they took testimony in it did they? A Yes sir.
Q And you don't know what was done with it? A Why I have a reason to believe.
Q Well, do you know? A Well, I know there was,---what was done with them, what his witnesses said, they admitted them; that was Johnson's father.
Q All you witnessed for at that time were admitted? A Yes sir, Harry Still and Johnson's father, I witnessed for, and the Court adjourned for a day or two and held us there, and wouldn't give us no more hearings and then told us to go back home, that they wasn't ready for us.
Q How many applied at that time? A I couldn't tell how many went there to apply, but they didn't apply.
Q Did you apply? A No sir.
Q Didn't apply? A Not to that Court.
Q But you did later? A Yes sir.

BY MR. STARR:

- Q You say that Court quit trying cases after that? A Yes sir, they quit trying cases after that and told these people to go home, they wasn't ready for them yet.
Q Were there lots of people there? A There was lots of them there.
Q Waiting for their cases to be tried when they went home? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q Is this applicant Andy Webber, the son of this Johnson Webber about whom you have been testifying? A Yes sir, he is a son.
Q Was Andy born at the time Johnson was before the Daniels' Court? A No sir, born since.

BY MR. HASTINGS:

- Q When were you married? A I was married in '67 at Tahlequah.
Q What time of the year? A In the summer.
Q Your wife lived at Tahlequah then? A Yes sir, she was living at Tahlequah then when I married her.

(Witness excused).

SAM WEBBER, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows on behalf of applicant:

BY MR. STARR:

- Q What is your name? A Sam Webber.
Q How old are you? A 60 some odd.
Q What is your postoffice? A Nowata.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q Enrolled on the regular roll? A Yes sir.
Q Are you acquainted with the applicant, Andy Webber? A Yes sir.
Q Are you acquainted with his father? A Yes sir.
Q What was his father's name? A Johnson Webber.
Q What was his mother's name? A Frances Sanders.
Q Was Johnson Webber and Frances Sanders married? A Yes sir.
Q Was Andy Webber born to this marriage? A Yes sir.
Q Do you know whether or not Johnson Webber ever applied to the Bob Daniels' Court or was ever called before that Court on the question of his citizenship in the Cherokee Nation? A Yes sir.
Q When was that? A Well, the time the Bob Daniels' court set at Tahlequah.
Q Well, did they try the Johnson Webber case? A Yes sir.
Q You remember who was his witnesses? A Why, Lewis Wright, and Peter Meigs made a statement there. They didn't witness close like they do now.
Q Were you there at the time? A Yes sir.
Q Do you know what was done with the case of Johnson Webber? A Th
They put him on the roll. Put Johnson and my father on. My father was old man Sam Webber, then Johnson and me and left my little brother off.
Q Was this Johnson Webber admitted by that Court the same Johnson Webber who is the father of the applicant, Andy Webber? A Yes sir, he is my brother you know.
Q How many of these cases did they try at that time? A They tried five.

Mr. Hastings:

I object to that because it is irrelevant and immaterial and move that that question and answer be stricken from the record, because we are only trying now the question of the admission of Johnson Webber.

On Behalf of the Commissioner:

The objection and motion will be noted.

- Q Was there a number of cases being tried by that Court at this time?

Mr. Hastings:

I want to object because it is irrelevant and immaterial, the only question is as to the admission of Johnson Webber, the alleged father of this applicant.

On Behalf of the Commissioner:

The objection will be noted.

- Q Is Johnson Webber living? A No sir, he is dead.
Q How long has he been dead? A I don't know exactly, it is several years now.
Q Is his wife dead, Frances? A She died first; before he did.
Q Did they live together as husband and wife until Frances died? A Yes sir.
Q What children did Johnson Webber have? A Why this Andy and Carrie, she is dead, and Annie, her husband killed her, and a baby; the baby died too. Andy is living yet. And this first wife's child is Mandy Hill now, she is at Vinita.
Q The only ones living now is Andy Webber and Amanda Hill? A Yes sir, the others are all dead.
Q And Amanda Hill is a half sister of Andy and the daughter of Johnson Webber? A Yes sir.

BY MR. HASTINGS:

I have no questions I care to ask.

(Witness excused).

On Behalf of the Commissioner:

The "Docket of Doubtful cases for Cherokee Citizenship tried in 1871," commonly known as the Daniels' Court shows the following entries:

"R. A. 16, Johnson Webber, decided in favor of defendant June 6th, 1871."

This entry follows the entry as to the case of Sam Webber.

On Behalf of the Commissioner:

The Attorneys for applicant and the Cherokee Nation announce that they have no further testimony to introduce in this case, the same will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lessley, being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 18th day of December, 1906.

Geo. H. Lessley
B. P. Rasmus
Notary Public.

4763

Cherokee Freedman D 959.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Andy Webber as a Cherokee Freedman.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That at Nowata, Indian Territory, June 29, 1901, Andy Webber appeared before the Commission to the Five Civilized Tribes, and made application for enrollment as a Cherokee freedman; that July 23, 1904, the Commission to the Five Civilized Tribes consolidated the Cherokee freedmen cases of Amanda Hill et al., C.F.D. 625, and Andy Webber, C.F.D. 959, and rendered its decision therein, denying all the claimants the right to enrollment; and that September 30, 1904 (I.T.D. 7582-1904), its decision was approved by the Department. Thereafter, on May 7, 1906 (I.T.D. 7582-1904, 875-1905, 1596-1905), a motion to reverse said decision insofar as it denied Andy Webber the right to enrollment as a Cherokee freedman having been filed with the Department, the Department rescinded its decision of September 30, 1904, insofar as it denied said Andy Webber the right to enrollment, and returned his case to this office with instructions to permit the applicant and the attorneys for the Nation to furnish such testimony as they might desire to submit as to whether Frances Webber (mother of said Andy Webber) was the slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, June 21, November 22, and December 5 and 7, 1906. Copies of the testimony of Dan Sanders and Reuben Sanders, taken in the Cherokee freedmen cases of Elizabeth Meigs, C.F.D. 391, Chaney McNair, C.F.D. 964, and Mary Johnson, C.F.D. 864; and the application and statement of Lewis Whitmire vs. the Cherokee Nation, taken before the "Chambers Court" on June 26, 1878, found on page 164, Book "B", citizenship record; and the application of Moses Whitmire vs. the Cherokee Nation, found in the same record, beginning on page 165; and also record No. 60, of Aaron Whitmire vs. the Cherokee Nation, found in Book "A", pages 239 to 247, inclusive, are filed herewith and made a part of the record herein.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, Andy Webber, was born in the Cherokee Nation since 1866, and is a son of Johnson Webber and Frances Webber, both deceased, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, and claims the right to enrollment as a Cherokee freedman as a descendant of his said parents; that the said Frances Webber left the Cherokee Nation during the progress of said rebellion and after ample opportunity having been afforded, it is not, by satisfactory evidence established that she returned to and established an actual personal bona fide residence in the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., and as provided by Section three of the Act of Congress approved April 26, 1906, (34 Stat. 137), for the return of Cherokee freedmen to said Nation. Hence the right to enrollment of said Andy Webber as a descendant of his said mother, comes within the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D.544-1904), Ed Williams (I.T.D.4230-1904), William Rector (I.T.D.1468-1904), Minnie Duncan, et al. (I.T.D.1470-1904), Samantha Chambers, (I.T.D.2296-1904), Moses Ross, (I.T.D.6056-1904), Florence Bratcher (I.T.D.12692-1904) and Frankie Grimmett (I.T.D.17902-1905). The Commission to the Five Civilized Tribes of July 23, 1904, found that the said Johnson Webber, deceased, did not return to the Cherokee Nation after the close of the rebellion within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation, and on September 30, 1904, (I.T.D.7582-04), its finding was approved by the Department.

The evidence introduced subsequent to the date of the decision rendered by the Commission to the Five Civilized Tribes July 23, 1904, and the Departmental decision of September 30, 1904 (I.T.D.7582-04), shows that Johnson Webber, father of the said Andy Webber, made application for admission to freedman citizenship in the Cherokee Nation to the Supreme Court of said Nation, commonly known as the "Daniels Court" in 1871, and was adjudged by said Court entitled to freedman citizenship in the Cherokee Nation, and that said applicant now bases his right to enrollment on said decision. The Honorable Frank L. Campbell, Assistant Attorney-General in his decision rendered October 5, 1905, (I.T.D. 7658-04), in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, held as follows:

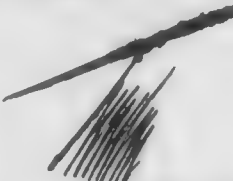
"The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat. 321-339), and is entitled to all the respect of a judicial

determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appears that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years".

The evidence further shows that said applicant has resided continuously in the Cherokee Nation since birth and is identified on the Kern-Clifton and Wallace rolls of Cherokee freedmen.

It is considered by this office that the evidence in this case wholly fails to show that the decision of the "Daniels Court" adjudging said Johnson Webber the right to freedman citizenship in the Cherokee Nation, was vitiated by "fraud" or that it on account of "lack of evidence then available was clearly wrong", and that following the rulings of the Department in the cases of Harry Still (I.T.D.7658-04,13208-05,23952-06), John and Cynthia Morgan (I.T.D.7235-05,8896-05,10716-05), and Amos Adair, et al., (I.T.D.15372-06), Andy Webber is entitled to enrollment as a descendant of his said father.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), Andy Webber is entitled to enrollment as a Cherokee freedman and his application for enrollment as such is accordingly granted.



Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 12 1907

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[Signature]
ACTING CHAIRMAN.

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Andy Webber,
Centralia, I. T.
Cherokee F-D-959
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

2-14-50
KING, Lon.

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Reference

being known to the source and informant in the case of some of the information received. The action of the Security will be taken on the basis of the Security of the Information for the State (b) with the removal of procedures, and

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THE UNIVERSITY OF CHICAGO

WILLIAM APPEAL

Department of the Interior,
Bureau of Indian Affairs.
AUG 9 - 1904
Encl. No. 2 of No. 678
Indian Territory, Division.

[illegible]

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COMMISSIONERS
TAMM DIXBY

THOMAS B. NEEDLES

W. BRACKINRIDGE

W. O. BEALE
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen

D-959.

Muskogee, Indian Territory, July 28, 1904.

Andy Webber,

Centralia, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee freedman, together with a copy of the Commission's decision dated July 23, 1904, rejecting, among others, your said application.

The decision, with the record of proceedings, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,



Commissioner in Charge.

Encl. S-146.

Register.

Sir

will you please Return
these Papers when you get through
with them

(C O P Y)

DEPARTMENT OF THE INTERIOR,

Refer in reply to OFFICE OF INDIAN AFFAIRS,
the following:

WASHINGTON, September 17, 1904.

Land

52172-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated July 28, 1904, transmitting the consolidated applications for enrollment as Cherokee freedmen by Amanda Hill for herself and her minor children, Della, Flossie and Sadie Hill and by Andy Webber for himself.

July 23, 1904, the Commission decided adversely to the applicants.

The evidence shows that the applicants, Amanda, Della, Flossie and Sadie Hill, were born since 1866, and are the descendants of Johnson Webber and Margaret Ward; that Andy Webber was born since 1866, and is a descendant of Johnson Webber and Frances Webber; that it does not appear that Frances Webber was the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the beginning of the war of the rebellion. It is shown that Johnson Webber and Margaret Ward were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return

thereto on or before February 11, 1867; that the names of all the applicants are identified on the Kern-Clifton roll and that Andy Webber is also identified on the Wallace roll. None of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner

Acting Commissioner.

H.M.M.
W.

(C O P Y)

W.C.F.
FHE

DEPARTMENT OF THE INTERIOR,
D. C. 37738-1904.
I . T. D. 7582-1904. WASHINGTON. September 30, 1904.
J.P.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

July 28, 1904, you transmitted the record in the consolidated Cherokee freedman case of Amanda Hill, et al (F. D.-959, D-625), including your decision of July 23, 1904, rejecting the application for the enrollment of Amanda, Della, Flossie and Sadie Hill, and Andy Webber.

Reporting in the matter September 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) Thos Ryan

1 inclosure.

Acting Secretary.

Cherokee Freedmen

D--959

Muskogee, Indian Territory, October 25, 1904.

Andy Webber,

Centralia, Indian Territory,

Dear Sir:

You are hereby advised that the Commission's decision dated July 28, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on September 30, 1904.

Respectfully,

James D. Smith
Chairman.

COPY.

Cherokee Freedmen

D-625 et al

Muskogee, Indian Territory, October 25, 1904.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory,

Gentlemen:

You are hereby advised that the Commission's decision dated July 23, 1904, rejecting the applications for the enrollment of Amanda Hill, Della Hill, Flossie Hill, Sadie Hill and Andy Webber, as Cherokee freedmen, was affirmed by the Secretary of the Interior on September 30, 1904.

Respectfully,

James H. Smith

Chairman.

COPY.

Cherokee Freedmen

D-959 D-626

Muskogee, Indian Territory, July 28, 1904.

Hastings, Bell & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated case of Amanda Hill, et al., rejecting the applications for the enrollment of Amanda, Della, Flossie and Sadie Hill and Andy Webber as Cherokee freedmen.

The decision, with the record of proceedings, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

Encl. 3-149.

T. B. Needles.
Commissioner in Charge.

COPY.

Cherokee Freedmen

D-958 D-628.

Muskogee, Indian Territory, July 28, 1904.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the consolidated case of Amanda Hill, et al., including the Commission's decision dated July 23, 1904, rejecting the application for the enrollment of Amanda, Della, Flossie and Sadie Hill, and Andy Webber as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. 3-180.

Through the

Commissioner of Indian Affairs.

(C O P Y)

D. G. 14596-1906

I.T.D. 875-1905

L R S

DEPARTMENT OF THE INTERIOR

WASHINGTON.

U S Jr
LLB

April 12, 1906

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory,

Sir:

Referring to departmental letter of September 30,
1904, you are advised that a motion for review has been filed
in the Cherokee freedman cases of Amanda Hill and Andy Webber.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos Ryan
First Assistant Secretary

-Copy-

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

J.F.Jr.

May 7, 1906.

D. C. 17741
I.T.D. 7582-1904.
875-1905.
1596- "

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On September 30, 1904, the Department affirmed the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated Cherokee freedman case of Amanda Hill et al. (F.D.959--D.625).

On January 25, 1905, a motion for review of the decision and reconsideration of the case was filed by the attorneys for the applicants. This motion refers to certain affidavits which were submitted with a communication from Andy Webber, an applicant, dated August 6, 1904, which communication on January 18, 1905, the Department declined to entertain as a motion to reopen the case.

It is considered that the papers in the case, in so far as they apply to Andy Webber, tend to show that said decision may be erroneous. That portion of departmental decision of September 30, 1904, relative to the application of Andy Webber, is rescinded

and you are directed to reopen said case and permit the applicant and the attorneys for the nation to offer such testimony as they may desire to submit as to whether Frances Webber was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation.

 Fully advise all parties in interest of the points in issue.

 The record, together with the affidavits and motion, are returned herewith.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

Through the Commissioner
of Indian Affairs.

3 inclosures.

Cherokee Freedmen

D-959.

Muskogee, Indian Territory, May 25, 1906.

Blue & Bulger,

Attorneys for Andy Webber,
Vinita, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Andy Webber as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of May 7, 1906, in which its decision of September 30, 1904, affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Andy Webber for enrollment as a Cherokee freedman, is rescinded and the case remanded to this office for further hearing as to whether or not Frances Webber, mother of said Andy Webber, was a slave of a Cherokee citizen at the commencement of the war of the rebellion, and as to her return to the Cherokee Nation after the war.

Said applicant has this day been advised that he will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, June 21, 1906, at nine o'clock A. M., and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that day and introduce such testimony as it may desire in this case.

-2-

For your information, there is inclosed herewith a copy
of Departmental letter referred to.

Respectfully,

Incl., S-109
LS

Acting Commissioner.

Cherokee Freedmen

D-959.

Muskogee, Indian Territory, May 25, 1906.

Andy Webber,

Centralia, Indian Territory.

Dear Sir:

In connection with the application for your enrollment as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of May 7, 1906, in which its decision of September 30, 1904, affirming the decision of the Commission to the Five Civilized Tribes, rejecting your application for enrollment as a Cherokee freedman, is rescinded and the case remanded to this office for further hearing as to whether or not your mother, Frances Webber, was a slave of a Cherokee citizen at the commencement of the war of the rebellion and as to her return to the Cherokee Nation after the war.

You are hereby advised that you will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, June 21, 1906, at nine o'clock A. M., and introduce testimony as above indicated. The Cherokee Nation will also be permitted to be present on that day and introduce such testimony as it may desire in this case.

Respectfully,

LS
Register

Acting Commissioner.

Cherokee Freedmen

D-959.

Muskogee, Indian Territory, May 25, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Andy Webber as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of May 7, 1906, in which its decision of September 30, 1904, affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Andy Webber for enrollment as a Cherokee freedman, is rescinded and the case remanded to this office for further hearing as to whether or not Frances Webber, mother of said Andy Webber, was a slave of a Cherokee citizen at the commencement of the war of the rebellion, and as to her return to the Cherokee Nation after the war.

Said applicant has this day been advised that he will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, June 21, 1906, at nine o'clock A. M., and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it may desire in the case.

-2-

For your information there is inclosed herewith a copy
of Departmental letter referred to.

Respectfully,

Incl. S-110
LS

Acting Commissioner.

Cherokee
F D 959

Muskogee, Indian Territory, July 12, 1906.

Starr & Patten,

Attorneys for Andy Webber,

Vinita, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings taken at Muskogee, Indian Territory, June 21, 1906, in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman. There is also inclosed a copy of the testimony of Daniel Sanders taken at Vinita, Indian Territory, on October 19, 1901, and a copy of the testimony of Reuben Sanders taken at Vinita, Indian Territory, on May 22, 1901, in the matter of the application for the enrollment of Elizabeth Meigs as a Cherokee freedman, and also a copy of the proceedings had before the Chambers Court on Cherokee citizenship in the cases of Lewis and Moses Whitmire.

Respectfully,

Incl. GL-1.
GHL

Commissioner.

Cherokee
F D 959

Muskogee, Indian Territory, July 12, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings taken at Muskogee, Indian Territory, June 21, 1906, in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman. There is also inclosed a copy of the testimony of Daniel Sanders taken at Vinita, Indian Territory, on October 19, 1901, and a copy of the testimony of Reuben Sanders taken at Vinita, Indian Territory, on May 22, 1901, in the matter of the application for the enrollment of Elisabeth Meigs as a Cherokee freedman, and also a copy of the proceedings had before the Chambers Court on Cherokee citizenship in the cases of Lewis and Moses Whitmire.

Respectfully,

Incl. GL-2.
GHL

Commissioner.

Cherokee
D 959.

Muskogee, Indian Territory, October 15, 1906.

Starr & Patten,

Attorneys for Andy Webber,

Vinita, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of
October 10, 1906, transmitting a motion on behalf of the
applicant in the Cherokee freedman case of Andy Webber.

Respectfully,

Commissioner.

LMC

Cherokee F.
D 959.

Muskogee, Indian Territory, November 12, 1906.

Starr & Patten,

Attorneys for Andy Webber,

Vinita, Indian Territory.

Gentlemen:

In connection with the Cherokee freedman case of Andy Webber, you are advised that a rehearing in said case is hereby ordered for the purpose of determining the relationship, if any, existing between said Andy Webber and one Johnson Webber, in whose favor a decision was rendered by the Supreme Court of the Cherokee Nation (Daniels Court) June 6, 1871.

You are advised that the applicant will be permitted to appear before the offices of the Commissioner on November 22, 1906, and offer such testimony as he desires to show whether or not he is related to said Johnson Webber.

Respectfully,

LMC

Commissioner.

Cherokee F.
D 959.

Muskogee, Indian Territory, November 12, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation.

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee Freedman case of Andy Webber, you are advised that a rehearing in said case is hereby ordered for the purpose of determining the relationship, if any, existing between said Andy Webber and one Johnson Webber, in whose favor a decision was rendered by the Supreme Court of the Cherokee Nation (Daniels Court) June 6, 1871.

The applicant and his attorneys have this day been notified that they will be permitted to appear before the offices of the Commissioner on November 22, 1906, and present such testimony as they desire, tending to show whether or not Andy Webber is related to said Johnson Webber.

Respectfully,

Commissioner.

LMC

Cherokee F.
D. 959.

Muskogee, Indian Territory, November 12, 1906.

Andy Webber,

Centralia, Indian Territory.

Dear Sir:

In connection with your Cherokee freedman case, you are advised that a rehearing of the same is hereby ordered to determine whether or not any relationship exists between you and one Johnson Webber, in whose favor a decision was rendered by the Cherokee Supreme Court (Daniels Court) on June 6, 1871.

Your attorneys, Starr & Patten, Vinita, Indian Territory, have this day been notified that you will be permitted to appear before the offices of the Commissioner on November 22, 1906, and present such testimony as you desire, tending to show what relation you are, if any, to said Johnson Webber.

The Cherokee Nation will also be permitted to appear on that day and introduce such testimony as it desires as to the question involved.

Respectfully,

LMC

Commissioner.

Cherokee
F D 959.

Muskogee, Indian Territory, December 20, 1906.

Starr & Patten,

Attorneys for Andy Webber,

Vinita, Indian Territory.

Gentlemen:

There are inclosed herewith copies of supplemental testimony taken at Muskogee, Indian Territory, November 23, and December 5 and 7, 1906, in the matter of the application for the enrollment of Andy Webber as a Cherokee Freedman.

Respectfully,

Incl. GL-5.
GHL

Commissioner.

Cherokee
F D 959.

Muskogee, Indian Territory, December 20, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There are inclosed herewith copies of supplemental testimony taken at Muskogee, Indian Territory, November 22, and December 5 and 7, 1906, in the matter of the application for the enrollment of Andy Webber as a Cherokee Freedman.

Respectfully,

Incl. GL-6.
GHL

Commissioner.

Cherokee F.
D 959.

Muskogee, Indian Territory, January 12, 1907.

Andy Webber,

Centralia, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 12, 1907, granting the application for the enrollment of Andy Webber as a Cherokee freedman.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl.H-160
JMH

Commissioner.

Cherokee F.
D 959.

Muskogee, Indian Territory, January 12, 1907.

Starr & Patten,

Attorneys for Andy Webber,

Vinita, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 12, 1907, granting the application for the enrollment of Andy Webber as a Cherokee freedman. You have heretofore been furnished a copy of the record of proceedings had in this case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-161
JMH

Commissioner.

Cherokee F.
D 959.

Muskogee, Indian Territory, January 12, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 12, 1907, granting the application for the enrollment of Andy Webber as a Cherokee freedman.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl.H-163.
JMH

Commissioner.

Muskogee, Indian Territory, January 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman, including the decision of the Commissioner, dated January 12, 1907, granting said application.

On May 7, 1906 (I.T.D.7582-1904,875-1905,1596-1905), the Department rescinded its decision of September 30, 1904 in the consolidated Cherokee freedmen case of Amanda Hill, et al., in so far as it affected the application of Andy Webber, and remanded this case to this office for rehearing and readjudication.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

Encl.H-164
JMH

Refer in reply to the following

LAND
4937-1907

--Copy--

DEPARTMENT OF THE INTERIOR/
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

On May 7, 1906 (I.T.D. 7582-1904, 1596-1905), the Department rescinded its decision of September 30, 1904, in the consolidated Cherokee freedmen case of Amanda Hill, et al., so far as it affected the application of Andy Webber, and remanded this case to the Commissioner to the Five Civilized Tribes for rehearing and readjudication.

I now have the honor to transmit herewith report of Commissioner Bixby, dated January 12, 1907, enclosing the record of proceedings had in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman, including the decision of the Commissioner, dated January 12, 1907, granting the application.

The records show that Andy Webber appeared before the Commission to the Five Civilized Tribes, at Nowata, Indian Territory, on June 29, 1901, and made application for enrollment as a Cherokee freedman; that on July 23, 1904, the Commission to the Five Civilized Tribes consolidated the Cherokee freedmen cases of

Amanda Hill, et al., and Andy Webber, and rendered a decision therein denying all the claimants the right to enrollment; and that on September 30, 1904 (I.T.D. 7582-1904), the decision of the Commissioner to the Five Civilized Tribes was approved by the Department. On May 7, 1906 (I.T.D. 7582-1904, 1596-1905), a motion to reverse the decision, so far as it denied Andy Webber the right to enrollment as a Cherokee freedman, having been filed with the Department, the Department rescinded its decision of September 30, 1904, so far as it denied the right of Andy Webber to enrollment as a Cherokee freedman, and returned his case to the Commission to the Five Civilized Tribes, with instructions to permit the applicant and the attorney for the Cherokee Nation to furnish such testimony as they might desire to submit as to whether Frances Webber, the mother of Andy Webber, was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. Further proceedings in the matter of the application of Andy Webber were had at Muskogee, Indian Territory, on June 21, November 22, and December 5 and 7, 1906.

Copies of the testimony of Dan Sanders and Reuben Sanders, taken in the Cherokee freedmen cases of Elizabeth Meigs, Chaney McHair, and Mary Johnson, and the application of Lewis Whitmire vs. the Cherokee Nation, taken before the "Chambers Court" on June 26, 1878, the application of Moses Whitmire vs. the Cherokee Nation, and also record No. 60, of Aaron Whitmire vs. the Cherokee Nation, are filed herewith and made a part of the record herein.

The evidence shows that the applicant, Andy Webber, was born in the Cherokee Nation since 1866, and is the son of Johnson Webber and Frances Webber, both now deceased, who were slaves of Cherokee citizens at the commencement of the war of the rebellion; that Andy Webber claims the right to enrollment as a Cherokee freedman as a descendant of his parents; and that Frances Webber left the Cherokee Nation during the progress of the rebellion, but the evidence does not establish that she returned to and established an actual, personal bona fide residence in the Cherokee Nation within the time provided by Section 3 of the Act of Congress approved April 26, 1906 (34 Stat.L., 137), for the return of freedmen to the Cherokee Nation.

The evidence introduced subsequent to the date of the decision of the Department of September 30, 1904 (I.T.D. 7582-1904), adverse to the applicant, shows that Johnson Webber, the father of Andy Webber, made application for admission to freedman citizenship in the Cherokee Nation to the Supreme Court of that Nation, commonly known as the "Daniels Court", in 1871, and was adjudged by that Court entitled to freedman citizenship in the Cherokee Nation, and that the applicant now bases his right to enrollment on that decision.

The Assistant Attorney-General for the Department, in a decision rendered October 5, 1905 (I.T.D. 7658-1904), in the matter of the application for the enrollment of Harry Still as a

Cherokee freedmen, held as follows:

"The adjudication of the Supreme Court of the Cherokee Nation upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat.L., 321-339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appears that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years."

The evidence further shows that the applicant, Andy Webber, has resided continuously in the Cherokee Nation since birth, and Commissioner Bixby reports that he is identified on the Kern-Clifton and Wallace rolls of Cherokee freedmen.

In view of the decision in the Harry Still case, and for the reasons herein set out, the Office is of the opinion that under the provisions of Section 21 of the Act of Congress approved June 26, 1898 (30 Stat.L., 495), Andy Webber is entitled to enrollment as a Cherokee freedman. The Office therefore concurs in the recommendation of Commissioner Bixby that the application of Andy Webber for enrollment as a Cherokee freedman be granted.

Very respectfully,

C.F. Larrabee,
Acting Commissioner.

D. C. 8344, 1907.

JJ Jr.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I. T. D. 875-1906.
1033-1907.
1870- "

February 6, 1907.

L.RS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 28, 1907 (Land 4937), the Indian Office transmitted your report dated January 12, 1907, in the matter of the application of Andy Webber, a party applicant in the Cherokee freedman case of Amanda Hill et al., together with your decision of January 12, 1907, granting the application of said Andy Webber.

The Indian Office concurs in your decision. A copy of its letter is inclosed.

From the reasons set forth in your decision it is apparent that said Andy Webber is entitled to be enrolled as a Cherokee freedman. Authority is hereby granted for the enrollment of said applicant.

In connection with this case the Department is in receipt of a communication from the attorneys for Amanda Hill et al., in reference to the motion for rehearing filed heretofore.

It appears that on January 25, 1906, a motion for a rehearing of the cases of Amanda Hill et al. and Andy Webber was filed with the Department.

On May 7, 1906, the Department considering that it was shown that its decision of September 30, 1904, in the case of Amanda Hill et al., in so far as it applied to Andy Webber, might be erroneous, rescinded that portion of said decision applying to Andy Webber and remanded the case for a further hearing.

It would appear that no action was taken by the Department on that portion of said motion applying to Amanda Hill and her descendants. As it now seems to be shown by the record that said Amanda Hill is a half-sister of Andy Webber and a daughter of Johnson Webber, who was admitted to citizenship in the Cherokee Nation by the Daniels court on June 6, 1871, it would appear that said Amanda Hill and her descendants may be entitled to enrollment as Cherokee freedmen.

In view of these facts the motion for rehearing as regards Amanda Hill and her descendants is hereby granted.

Departmental decision of September 30, 1904, referring to these applicants, is rescinded and you are directed to reopen said case and permit the applicant and the attorneys for the nation to submit such testimony as they may desire as to the right of said Amanda Hill and her children to enrollment as Cherokee freedmen.

-3-

The record is returned herewith.

Respectfully,

Through the Commissioner
of Indian Affairs.

Thos Ryan
First Assistant Secretary.

2 inclosures.

Cherokee F.
D 959

Muskogee, Indian Territory, February 14, 1907.

Andy Webber,

Centralia, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 12, 1907, granting the application for your enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, February 6, 1907.

You will be advised when your name has been placed upon a schedule of Cherokee freedmen and approved by the Secretary of the Interior.

Respectfully,

JMH

Commissioner.

Waskagee, Indian Territory, February 14, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 6, 1907, (I.T.D.875-1905, 1033,1817-1907), authorizing the enrollment of Andy Webber, as a Cherokee freedman, there is transmitted herewith a schedule containing his name No. 4229, enrolled under the provisions of the Act of Congress approved July 1, 1902 (32 Stat.,716).

Respectfully,

Through the Commissioner,
of Indian Affairs.

Commissioner.

4 inclosures.

Cherokee Freedmen

D-959.

Muskogee, Indian Territory, May 26, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In connection with the application for the enrollment of Andy Webber as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of May 7, 1906, in which its decision of September 30, 1904, affirming the decision of the Commission to the Five Civilized Tribes, rejecting the application of Andy Webber for enrollment as a Cherokee freedman, is rescinded and the case remanded to this office for further hearing as to whether or not Frances Webber, mother of said Andy Webber, was a slave of a Cherokee citizen at the commencement of the war of the rebellion, and as to her return to the Cherokee Nation after the war.

Said applicant has this day been advised that he will be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes on Thursday, June 21, 1906, at nine o'clock A. M., and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it may desire in the case.

52172

Indian Office,

Incl. No.

2

1904

5125

Incl. No.

7

1905

CHEROKEE CASE

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT
OF

Amanda Hill et al
Andy Webber

(1885)

7572

596

ENCLOSURE

is citizen of the Cherokee Nation.

Muskogee, I. T.,

1901

Respectfully forwarded to the Secretary of the Interior
for review

Acting Chairman

Cher Fr 1548

Trans. from Cher Fr D330

Cher Fr 1548

REJECTED: as to husband, George Adams.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 16, 1901.

In the matter of the application of Katie Adams for the enrollment of herself and eight children as Cherokee freedmen by right, and of her husband as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Needham she testified as follows:

Appearances:

Mellette & Smith, attorneys for applicant;
L. B. Bell, Cherokee Representative:

- Q What is your name? A Katie Adams.
Q What is your age, Katie? A I am 36.
Q What is your post-office address? A Welch, I.T.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know whether it is, mister, honestly.
Q Is it on any of the rolls? A Yes sir.
Q On the Kerns-Clifton pay roll? A Yes sir.
Q On the Wallace roll? A Yes sir.
Q Who do you want to enroll besides yourself? A Me and my children and husband.
Q How many children have you? A I have eight living.
Q Give me the names of those under 21 years of age. A All of them is under age, there's the ages of them. (Hands Commissioner a paper).
Q Albert Adams, how old is Albert? A He is 15.
Q George Edward Adams, 14? A Yes sir.
Q Elias one of them? A Yes sir.
Q 13? A Yes sir.
Q Walter, 11? A Yes sir.
Q Cora? A Yes sir.
Q Cora is 10 I believe? A Yes sir.
Q Elmer eight years of age, Ella? A Yes sir.
Q Five years of age; Cordelia? A 2 years old.
Q Melvin? A He is dead.
Q Eight in all? A Yes sir.
Q Are these children all alive and living with you at this time? A Yes sir.
Q Are you married? A Yes sir.
Q What is your husband's name? A George Adams.
Q Is he a citizen? A No sir, he is a United States citizen; here is his license. (Produces papers)
Q You apply for his enrollment? A Yes sir.

Com'r: Applicant presents certificate of marriage and duly authenticated marriage license, issued by the authorities of the Cherokee Nation, under seal, duly recorded as provided by the laws of the Cherokee Nation, certifying that she was married to one George Adams.

- Q There is no certificate of marriage here? A No sir. I lost the marriage certificate, but I can prove that we were married.

Com'r: Presents duly authenticated marriage license authorizing her marriage with her husband George Adams, said marriage license being issued by the authorities of the

Katie Adams, et al.-- 2.

Cherokee Nation and duly recorded, but presents no certificate of marriage.

Applicant: My husband is 48 years old.

Examined by Smith, of Mellette & Smith, attorneys for app't:

- Q Who was your father? A William Tucker.
Q The man who was just on the stand here, applying for himself?
A Yes sir.
Q Who was your mother? A Lettie, some called her Charlotte, but her name was Lettie.
Q Where do you live? A On Big Cabin.
Q How long have you lived there? A Ever since I can remember anything.
Q Big Cabin in the Cherokee Nation? A Yes sir.
Q How old did you say you were? A I am 36.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q Are these children that you apply for all living with you?
A Yes sir.
Q Where were they born? A In the Cherokee Nation.
Q Where were you and your husband married? A Right in father's house.
Q Where is father's house? A In the Territory.
Q Cherokee Nation? A Yes sir, where I was raised at.
Q Is there anyone here who saw you married? A Yes sir.
Q Who? A Mr. Steven Vann over there and my father.
Q Are you on the Kerns-Clifton roll? A I guess so.
Q Did you draw money at the Kerns payment or the payment that followed the Kerns roll? A Yes sir, and the Wallace too.
Q The payment that followed the Kerns roll, for whom did you draw, for anyone besides yourself? A Yes sir, for me and my oldest children. Drawed for all of them but Ella.
Q You know how you were put down on the Kerns roll, as Katie Adams or somebody else? A I don't know how they put it down; you see father give in my name. I think it was Katie Adams though.
Q What name did you go by before you were married? A Katie Tucker; I never was married but once, this is my first husband.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 169 #4160 Kate Adams, Cooweescoowee District;
page 169 #4161 Albert Adams, Cooweescoowee District;
page 169 #4162 George Adams, Cooweescoowee District;
page 169 #4163 Elias Adams, Cooweescoowee District;
page 169 #4164 Walter Adams, Cooweescoowee District;
page 169 #4166 Cora Adams, Cooweescoowee District;
page 169 #4165 Elman Adams, Cooweescoowee District.

- Q Were you on the Wallace roll yourself? A Yes sir.
Q How were you put down on the Wallace roll, as Katie Adams or Katie Tucker? A Katie Adams.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:
page 98 #2107 Katie Adams, Cooweescoowee District.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicants not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

Katie Adams, et al. -- 3.

Q Who do you say your mother was? A Her name was Lettie.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A She belonged to Dave Roe, I think; she always told us that was her young master.
Q Was he a Cherokee? A Yes sir.
Q Where did he live? A I don't know sir.
Q Who have you here who knows about who your mother belonged to?
A Oh her sister is here; I guess George Vann knows about her owners, they all lived close together I suppose.

WILLIAM TUCKER, being sworn - having been before sworn, by Commissioner Needles, and being examined by him, testified:

Q You were married to Lettie? A Yes sir.
Q Have you got a certificate of marriage? A No sir. Married in Kansas, up close to Osawatomis.
Q You were married according to law? A Yes sir, a preacher married us; we didn't get any license.

Examined by Attorney Smith:

Q When was that that you married? A Oh I guess it must have been about '63. Somewheres in the first of '63.
Q Was that at the mother of Katie Adams here? A Yes sir.
Q Where was Katie born? A She was born there in Kansas, just before we came down here.
Q About how old was she when you came down here? A I guess she must have been about 2 years old.
Q Where has she been living ever since you brought her ~~xxx~~ here?
A Up here on Cabin Creek close to where I live.
Q How long did you live with the mother of Katie? A Something near about 25 years anyhow.
Q Who was this girl's mother before you married her, what was her name? A They called her Lettie, she belonged to Dave Roe, but she was living with Ben Mush, some called him Ben Wisdom. But her main owner was named Roe.
Q Was he a citizen, an Indian? A Yes sir.
Q In the Cherokee Nation, citizen of the Cherokee Nation? A Yes sir.
Q Where was Lettie when the war commenced? A She was here too, I reckon, I don't know where she was; I come across her in Kansas.
Q When did she come back to the Cherokee Nation? A She come back with me in '66.
Q You say you were married to this woman Lettie, Katie's mother, in Kansas, and lived with her 25 years? A Yes sir.

Examined by Cherokee Representative, L. B. Bell:

Q Is Lettie dead now? A Yes sir.
Q How long has she been dead? A About eight years; she died just before the Wallace payment.
Q Is this your oldest child? A This is the oldest one by me; you know Gilbert Vann is her oldest one and Steve is the next.
Q This is the oldest child of yours by that last marriage? A Yes sir.
Q When you married this last woman was your first wife dead, Nancy? A Oh, yes, Nancy died before the war.

GEORGE VANN, being sworn by Commissioner Needles, testified as follows:

Examined by Attorney Smith:

- Q State your name? A George Vann.
Q Where do you live? A I live on Verdigris river, Cooweescoowsee District.
Q How long have you lived there? A Ever since '74.
Q Do you know this applicant, who sits here, Katie Adams? A Yes sir.
Q Do you know her father? A Yes sir, her father was named William Tucker.
Q Did you know her mother? A Yes sir.
Q Is her mother living? A She is dead.
Q Do you know whether Katie's father, William Tucker, and her mother were married, or whether they lived together as man and wife? A I wasn't there when they married.
Q How long did you know them living together in that way? A I first knowed it in Kansas in about '63 or '64.
Q Do you know when Katie's mother died? A I know, it has been 7 or eight years.
Q When did you first know Katie's mother and William Tucker? A I have knowed Katie's mother all my life.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong? A I believe she belonged, that is she always went by Roe, she lived with a woman called Pollie Mush, Dave Roe's sister.
Q Where? A Down on Spring Creek, in Saline.
Q Do you know whether she went out of the Nation or not, during the war? A Yes sir, she went to Kansas.
Q You know when she came back? A She came back with Bill Tucker in '66.

Examined by Cherokee Representative, J. B. Bell:

- Q You say she came back with Bill Tucker? A Yes sir.
Q How do you know? A I saw them.
Q Where? A Right at Ft. Gibson. We started before they did, and first I saw them after I got back I saw them at Ft. Gibson.
Q They wasn't in that horse Creek fight? A No sir, they wasn't along.
Q You met them at Gibson after you got off of that battle? A Yes sir, the first I saw them after we got back was at Ft. Gibson.

Applicant, KATIE ADAMS, re-called, and further examined;
By Commissioner Needles:

- Q When were you married? to George Adams? A When we first married Mr. Riley married us in father's house, and then after that they commenced talking about people marrying according to law, then we got a license and married over again.
Q That was in 1896? A Yes sir, that's the way it was.

Com' r. Needles: Katie Adams applies for the enrollment of herself and eight children; her name is not found upon the authenticated roll of 1880, but is duly identified upon the Kerns-Clifton roll, and the Wallace roll, and the names of her six children, oldest children are identified upon the Kerns-Clifton roll; the names of her two youngest children, Ella and Cordelia are not found upon said roll; it will be necessary for her to make satisfactory proof of their birth; she avers that she is the daughter of William Tucker, and that her mother's name was Lettie, who was a Cherokee slave, the facts being

more fully stated in the testimony; reference is made to the testimony taken in the application of William Tucker for the enrollment of himself and three grand-children, he having been enrolled on card number D-329, testimony in said case will be made a part of the record in the case of the applicant, and copies of the same will be filed with her testimony; she applies for the enrollment of George Adams, her husband, an intermarried citizen; she presents satisfactory proof that she was married to George Adams according to the laws of the Cherokee Nation in the year 1896, too late, by the provisions of the laws of the Cherokee Nation to acquire any rights, consequently, her application for the enrollment of her husband, George Adams, will be rejected; said applicant and her children enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, by reason of the fact that her name is not upon the authenticated roll of 1880 and her citizenship is contested by the representatives of the Cherokee Nation; when her case is duly considered by the Commission and their conclusion is arrived at, she will be notified of the same, by mail.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this May 17, 1901.

(Signed) C. R. Breckinridge,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony now on file in this office.


Sarah Waters

Subscribed and sworn to before me this Dec. 1 1906.

J. P. Rasmus
Notary Public

62 O. A. 330
DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 16 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date May 16, 1901Post Office Welch, Ia.District Corvallis1. Name George AdamsAge 48

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Mother

1. Name of wife Katie AdamsAge 36

Owners name

Citizenship

Year

Page

No.

District

Parents:

Father

Mother

Names of Children:

2. Albert AdamsYear K.L. Page 169 No. 4161 Dist. Cor

15

3. George E. "Year " Page 169 No. 4162 Dist. "

14

4. Eliza "Year " Page 169 No. 4163 Dist. "

13

5. Walter "Year " Page 169 No. 4164 Dist. "

11

6. Lora "Year " Page 169 No. 4166 Dist. "

10

7. Elmer "Year " Page 169 No. 4165 Dist. "

8

8. Ella "Year " Page " No. " Dist. "

6

9. Cordelia "Year " Page " No. " Dist. "

2

Application made by Katie Adams

Stenographer

1 On Wallace roll, Page 98 * 2107 - Cor

1 On K.L. roll as Katie Adams3 " " " " George "7 " " " " Elmer "7 " " " " affidavits of birth required.

X Ref D 329

X 11/1/01

Mellette and Smith, attys for applicants.

CHEROKEE FREEDMAN, 83

Cherokee Freedman

"19"

in Application
of Infant Child

Cordelia Adams
as a Citizen of the
Cherokee Nation

APPROVED MAY 21 1901

[Signature]
COMMISSIONER

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 21 1901

DEPARTMENT OF THE INTERIOR

Commission to the Five Civilized Tribes

In re application for enrollment as a citizen of the Cherokee Nation
of Cornelia Adams, born on the 11th day of Jan 1899.
Name of father, George Adams, a citizen of the United States.
Name of mother, Katie Adams, a citizen of the Cherokee Nation.

Post Office

Welch I.T.

Affidavit of Mother

State of Kansas
County of Labette

188

I, Katie Adams, on oath state that I am 36 years of age and a citizen
by ~~blood~~ of the Cherokee Nation; that I am the lawful wife of George
Adams, who is a citizen of the United States, that a female child
was born to me on the 11th day of January 1899, that said child has
been named Cornelia Adams, and is now living.

Witnesses to mark

San J. Smith

Low McAllen

Katie + Adams
mark

Subscribed and sworn to before me this 18th day of May 1901

My Comm 4/10/1901

A. H. Bell
Notary Public

S

Affidavit of Midwife.

State of Kansas
County of Labette

188

I, Mary Hudley, a midwife, on oath state that I attended on Mrs
Katie Adams, wife of George Adams on the 11th day of January 1899;
that there was born to her on that date a female child; that said
child is said to have been named Cornelia Adams and is now living.

Witnesses to mark

San J. Smith

Low McAllen

Mary + Hudley
mark

Subscribed and sworn to before me this 18th day of May 1901

My Commission will expire 3/10/1902

A. H. Bell
Notary Public

CHEROKEE FREEDMAN 8330

IN RE

Application for Enrollment of

INFANT CHILD

ella Adams

as a citizen of

CHEROKEE

Nation

MAY 21 1901

Approved

1901

[Signature]

DEPARTMENT OF THE INTERIOR

PERMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 21 1901

[Signature]

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the

of Ella Adams, born on the 26th day of March, 1896.
(Here insert name of child)
Name of Father: George Adams, a citizen of the U.S.
Name of Mother: Katie Adams, a citizen of the Cherokee Nation.
Post-office, Welch L.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,

Indian Territory District.

I, Katie Adams, on oath state that I am 36
years of age and a citizen, by blood adoption, of the Cherokee Nation;
that I am the lawful wife of George Adams, who is a citizen,
of the U.S., and that a female child was
born to me on the 26th day of March, 1896, that said child has been
Ella Adams, and is now living.

Subscribed and sworn to before me this 18th day of May, 1901.
Don Stewart
Notary Public
Notary Public

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,

Indian Territory District.

I, George Adams, on oath state that I
attended on Mrs. Katie Adams, wife of George Adams,
on the 26th day of March, 1896; that there was born to her on
that day a female child; that said child is now living and is said to have been
Ella Adams.

Subscribed and sworn to before me this 21st day of May, 1901.
George Adams
Notary Public
Notary Public

To be filed in Cherokee F D 329, 330, and 739.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FREE CIVILIZED TRIBES.
VINITA, I. T., MAY 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee freedmen, he being sworn and examined by Commissioner T. B. Needles testified as follows:

- Q What is your name? A Aaron Martin.
Q How old are you Aaron? A I guess about 67 or 68
Q What is your post office address? A Chelsea.
Q What district do you live in? A Cooweescoowas.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

- Q Did you receive your money known as the Cherokee Strip money?
A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

- Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Gap Hicks, and Andrew Frey.

Aaron Martin--2.

- V. V. Hastings:** Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
- Q Are you a blacksmith? A No sir.
- Q Another Martin is a blacksmith? A Yes sir.
- Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cookrum was living at Johnson Thompson's place when I got back.
- Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
- Q About what time did you come down to the Cherokee Nation after the war--what time in '66? A It was some time in the fall.
- Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:

- Q Is your name Andrew Frey? A Yes sir.
- Q How old are you? A 66.
- Q What is your post office? A Vinita.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q Freedman? A Yes sir.
- Q Do you know Aaron Martin? A Yes sir.
- Q How long have you known him? A Why, I don't know, sir, just exactly how long, ever since we were boys.
- Q Was he a slave? A Yes sir.
- Q To whom did he belong? A He belonged to John Martin.
- Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
- Q Where? A He was over here across the river part of the year 1866.
- Q In the Cherokee nation? A Yes sir.
- Q Did he go out of the Cherokee Nation during the war? A Yes sir.
- Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
- Q Did he return? A Yes sir.
- Q In what year? A In '66.
- Q Are you any relation to him? A No sir.
- Q Was he married at that time? A Yes sir.
- Q Was his family with him? A Yes sir.
- Q Did his family return with him? A Yes sir.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A I belonged to Mary Clark.
- Q Were you in Kansas with Aaron Martin? A Yes sir.
- Q Did you return with him? A Yes sir.
- Q Have you known Aaron Martin well since that time? A Yes sir.
- Q Has he lived in the Cherokee nation since? A Yes sir.
- W. V. Hastings:** You say he come back with you? A Yes sir.
- Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
- Q Well, name some of the rest of them? A Peter Williams.
- Q Anybody else? A Toke Ser'maher, Jake Martin's family.
- Q Anybody else? A I don't know how else.
- Q That is all you can remember? A Yes sir.
- Q What time in the year did he come back? A He come back--we got back over to Dr. Thompson's place the 3rd of October, '66.
- Q Any colored folks there when you got there? A No one at all.
- Q You are positive about that are you? A Yes sir, no one at all there.
- Q That was in October, '66? A Yes sir.
- L. B. Bell:** Who got back there first, you or Judge Daniels family?
- A No.

Aaron Martin--3.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

- Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your post office address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
Q W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner: Did you draw money for Frances and Neely? A Yes sir.
of Applicant.

The Kerns Clifton roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:

Page 23, No. 566, Frances Adams, Delaware District.
Page 23, No. 569, Nealey Adams, Delaware District.

Agren Martin--4.

- Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) M. D. Green
Notary Public.

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that same is a full true and correct copy of the original transcript.

(Signed) Lucy M. Bowman.

Subscribed and sworn to before me this 10th day of March, 1906.

(Signed) Chas. E. Webster
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy, and that same is, in part, a correct copy of the original transcript.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Reemus
Notary Public.

To be filed in case of Katie Adams, et al. C.P.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 18, 1901.

In the matter of the application of William Tucker for the enrollment of himself and three grandchildren as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Tucker.
- Q How old are you? A Well, I don't exactly know; somewhere between sixty and seventy; about 65 I will say.
- Q What is your post-office? A Welch.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
- Q Did you ever apply to be enrolled by any other nation or tribe? A No sir.
- Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know; there has been so many different rolls taken.
- Q Is your name on the roll of 1880? A I don't know.
- Q You don't know whether it is on any roll? A Yes sir, I know it is on the Clifton and Kerns Roll and the Wallace roll.
- Q Who do you want to enroll besides yourself? A Three grandchildren.
- Q Give me their names? A William Bank.
- Q How old is William? A He is twenty.
- Q Next? A Irene.
- Q How old is Irene? A 15.
- Q The name of the next one? A Virdie.
- Q How old is Virdie? A 10 years old.
- Q What is the father's name of these children? A William H. Bank.
- Q Is he living? A Yes sir.
- Q Why don't he enroll his own children? A He is living in the states.
- Q What is their mother's name? A Mary, she is dead.
- Q Where are these children now? A One is at my house, and the other two are in Kansas going to school. The youngest ones are in Kansas.
- Q Living there with their father? A Yes sir, same place he is living.
- Q Where were they born? A They were born in Kansas.
- Q All the children born in Kansas? A Yes sir.
- Q Was Mary Bank your daughter? A Yes sir; she went up there and married.
- Q When did she marry in Kansas? A I don't know just what year it was in.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A George Whitmire.
- Q Was he a Cherokee? A Cherokee Indian.
- Q Is he alive? A No sir, he is dead.
- Q Were you taken out of the Cherokee Nation during the war? A I wasn't taken out; I went out.
- Q Where did you go? A I went to Kansas.
- Q When did you return from Kansas to the Cherokee Nation? A I come back in the fall of '66.
- Q Where to? A I went to Gibson when I first come.
- Q Been living here ever since? A Yes sir, been in this Nation ever since.
- Q How old would your daughter, Mary, be if she were alive? A I guess 46 or 7 years old. She was born before the war. She never did go out of here. I left her here with the old lady, and when I come back I found her here.
- Q When did she go to Kansas? A She went out to Kansas and married.
- Q You know what year she married? A No sir, I don't.

William Tucker 2

- Q Do you know how old she was when she married? A No sir.
- Q Is William Banks her oldest child? A Yes sir.
- Q She must have be enout then over twenty years? A No sir. she was
Q't out that long; she was at my place.
- Q Shenever did come back from Kansas? A Yes sir.
- Q After they were married? A Yes sir.
- Q After she married, did she move back? A Yes sir.
- Q Did she move back or just on a visit? A She didn't move back;
she was visiting backward and forward.
- Q But she lived in Kansas? A Yes, sir, she lived in Kansas.
- Q So she must have been about twenty years old or less than twenty
years old when she married? A Yes sir, I guess so, some where along
there.
- Q And she died in Kansas, did she? A Yes sir.
- Q And her husband still lives in Kansas? A Yes sir.
- Q And these three children were born in Kansas? A Yes sir.
- Q And they always lived in Kansas? A This boy has been living with
me, the oldest one, and the other ones have been in Kansas.
- Q How long has he been living with you? A He has been there quite
a while.
- Q Since his mother died? A And before too.
- Q He lived with you before? A Yes sir.
- Q But the other children never lived in the Cherokee Nation? A No
sir, they never have lived in the Cherokee Nation.

The 1880 authenticated roll and the 1896 census roll of
the Freedmen of the Cherokee Nation examined and the names of
the applicant and his deceased daughter are not found thereon.
The Kerns Clifton roll examined and the name of the applicant
is found on page 168 #4151, William Tucker, Cooweescoowee Dis-
trict.

- Q Did you draw strip money for these children? A Yes sir.

The Kerns Clifton roll examined and the names of the
applicants grand children are found thereon as follows:
Page 169 #4168 Willie Banks, Cooweescoowee District;
Page 169 #4169 Irene Banks, Cooweescoowee District;
page 169 #4167 Lettie Banks, Cooweescoowee District.

- Q When was it you say you came back to the Cherokee Nation from
Kansas? A I come back in the fall of '66.
- L.B. Bell: Where do you live now? A I live where I have been
living for thirty years on Cabin Creek where Rogers used to live.
- Q Don't you live in Chatopa? A Never been there to live in my
life. I live on Cabin Creek.
- Q You say you have been living there for thirty years? A Yes sir,
I went there in '69; that is over 31 years.
- Q You have been living at the same place all the time? A Yes sir,
Mr. Schrimmer taken the census when I was there.
- Q Why didn't they put you on the roll of 1880? A I don't know
why it is. Some way Mr. Bell, you all managed it.
- Q You never moved out of the country since you come in? A Never
have been out of the country.
- Q When you returned in '66, where did you go to? A To Fort Gibson.
- Q How long did you stay there? A Along until about winter. Every-
body was so hungry, and they were issuing rations there and we had
to go there to get something to eat.
- Q Who did you stay with? A I just camped out.
- Q Did you have a family then? A Yes sir.
- Q Did you have a family when you went off? A No sir.
- Q You married after that? A I married in Kansas.

W. T. 3

Q Did you marry a Cherokee? A Yes sir, a Cherokee, one of Dave Rowe's; she used to live with his sister that Ben Much married.
Q These children you report here are they at that woman's children?
A No sir, another's woman's children. Mary is by a woman I had when I lived here.
Q Who are these children's mother now? A My daughter.
Q I mean your other children? A Then was Lydia's children.
Commissioner Needles: Do you own any property in the Cherokee Nation? A Yes sir, I got a good farm.
Q Been living on it for thirty years? A Yes sir.
Q How many acres have you got? A About three hundred acres.
Q Have you any witnesses? A Yes sir.

L.D. Daniels, being sworn and examined by Commissioner Needles, testified as follows:

Q Your name is L.D. Daniels? A Yes sir.
Q How old are you? A 56.
Q What is your post-office? A Claremore.
Q Do you know William Tucker? A Yes sir.
Q How long have you known him? A I have been knowing him about 36 years, I guess, near about.
Q Well, was he a slave before the war? A No, I don't know that.
Q Where was he in 1866? A I met him at Gibson in November, I believe it was, and he come there to get something to eat and I let him have it and I got acquainted with him and others that was with him.
Q In the year of 1866? A Yes sir.
Q Have you known him continuously since that time? A About five years or six or seven years I found him up here in Cooweescoowee. I have been knowing him ever since that.
Q You don't know whether he went out of the country during the war or not? A Yes, he said so.
Q You don't know who his owner was? A No sir; they called him Falk. I wasn't acquainted with him until I met him down there; he said that was a nickname or something.
L.B. Bell: The first time you saw him was in 1866? A Yes sir.
Q He was a stranger? A Yes sir, he come there with Jesse Vann.
Q And you recollect him right straight on? A Yes sir, they told me who he was down there.
Q He was introduced to you? A He was introduced; he come to get rations and I issued it.
Q Did you keep a memorandum? A Yes sir, we had to do it to keep the Creek darkies from getting rations, and those who were citizens. We were issuing to the Cherokee Freedmen.
Q Probably you can give us the day and the month? A If I knew this was coming up, I would have kept the book; I could have made some money on it.
Q You recollect this is the man you issued the rations to? A Yes, I recollect it, because when I met him in '76, when I moved up here I met him frequently; his wife's folks lived right near me at Gooseneck; he told me that he was the same man I met.
Q You would not have remembered it? A Maybenot.
Q Do you remember all that you issued rations to? A I come right near knowing all the old folks; I don't remember all the children.
Q Did you issue rations to a great many? A Yes sir, from 1865 to 1867.

Lester Freeman, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A Lester Freeman.
Q What is your age? A 58.
Q What is your post-office? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Do you know William Tucker, the applicant? A Yes sir, I know him well.
Q Was he a slave before the war? A I don't know.

3 W.T.

Q When did you first see William Tucker? A The first time I seen him was along in '66, or sometime along there when the come down after the rations after he had come back from somewhere, I don't know where he come from I got acquainted with him then; we were both young men.

Q Where was that at? A Fort Gibson.

Q You are satisfied you saw him in Fort Gibson? A Yes sir.

Q Has he been living in the Cherokee Nation ever since to your knowledge? A Yes sir, to the best of my knowledge; I haven't missed him out very long at a time.

Q Do you know whether he had a daughter named Mary or not? A No sir, I don't know anything about his daughter.

L.B.Bell: What were you doing at Gibson about that time? A A little of everything directly after the war; I was having a good time; I was young ran; I didn't have any steady occupation at all. Q Were you living there continuously or just in and out? A I was raised there.

Q I am talking about 1866? A Yes sir, I was there all the time.

Q That was your home? A Yes sir.

Q What ever business you had was in Gibson? A Yes sir, everything I done was in Gibson.

Q How long did this man stay about Gibson in '66? A I don't remember; I seen him just the same as I seen other people there, in and out.

Q Did he stay a month, do you reckon? A I don't know whether he stayed a month or not. He didn't stay with me; I often seen him there.

Q I understand you to say you and he were having a good time? A He was a young man and we were all having a good time there.

Commissioner of Applicant: How long has Mary been dead? A About seven years, I believe.

Q Did she draw money on the Wallace roll? A I don't know whether she got money that time or not.

Q Did she draw it on the Kerns Clifton roll? A She was dead then.

The Wallace roll examined for the name of the applicant's daughter and her name is not found thereon.

Q Is there anybody here that knew Mary Banks? A I don't know whether anybody is here or not; yes, there is.

Q You have got to prove now that Mary Banks was called your child? A I don't know only by what the woman said. She was always claimed to be my child.

Q Is your wife living? A No sir.

Q Mary has never married but one? A No sir. She might be down as Pack. Mary's mother belonged to Betsy Pack.

Joe Davis, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Joe Davis.

Q What is your age? A 46 years old.

Q What is your post-office? A Vinita.

Q Are you a recognized Freedman of the Cherokee Nation? A I don't know whether I am or not.

Q You are disputed, are you? A Yes sir.

Q Do you know William Tucker, the applicant, here? A Yes sir, he raised me.

Q Did he have a daughter named Mary? A Yes sir.

Q Was she his oldest daughter? A Yes sir.

Q Who did she marry? A She married a fellow by the name of Banks from Kansas.

Q What was her mother's name? A I don't recollect - Aunt Nancy Pack.

Q Was William Tucker married to Nancy Pack? A I couldn't tell you; I was only a little boy; they lived together I guess before the war.

4 W.T.

like old colored folks did.

Q She was recognized as the child of William Tucker? A Yes sir.

Q You and she were raised together? A Yes sir.

Commissioner of Applicant. Who was Mary Banks' mother? A Nancy Pack.

Q Were you married to her at that time? A No sir. There was no use in marrying then times; they would be taken away from you.

Q You weren't married in slave time? A No sir.

Q Is Nancy Pack living? A No sir, she is dead.

Q Who did she belong to? A Betsy Pack.

Q Was Betsy Pack dead? A Cherokee Indian? A Yes sir.

Q Is Betsy Pack dead? A Yes sir, long ago.

Q She was at the child of Nancy Pack? A Yes sir.

Q You took Mary to Kansas with you when you went? A No sir, she was here during the war. I went to Kansas.

Q She never did leave until she married? A No sir, she never did leave until she married.

William Tucker applies for the enrollment of himself and three grandchildren, William Banks, Irene Banks, and Vir die Banks. He avers that said children are the children of his daughter, Mary Banks, by her husband, William H. Banks; that they were born and lived in the State of Kansas. Said Mary Banks was married in the State of Kansas. He avers that Mary Banks was the child of Nancy Pack, a slave, and that Nancy Pack belonged to Betsy Pack, a Cherokee citizen. He avers that said Mary Banks never left the Cherokee Nation until she married her husband, William, which facts are all stated in the testimony. The name of William Tucker cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns Clifton roll, and his three grandchildren, William Banks, Irene and Vir die Banks, are identified on the Kerns Clifton roll. He avers that he was the slave of one George Whitmire. He makes satisfactory proof as to residence. By reason of the fact that his name is not found upon the authenticated roll of 1880, and the further fact that his citizenship is contested, said William Tucker will be listed for enrollment as a Cherokee Freedman upon what is known as a doubtful card. By reason of the fact that Mary Banks, the mother of the children applied for, does not appear upon the authenticated roll of 1880, nor upon any rolls in the possession of the Commission, at this time, and the further fact as to their residence in the State of Kansas, and further as to their citizenship be protested against by the authorities of the Cherokee Nation, the said children will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. Said William Tucker will be duly notified of the action of the Commission when the same is consummated, by mail.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 20th day of May, 1901.

(signed) E.G. Rothenberger.
(signed) C.R. Breckinridge, Commissioner.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he ~~correctly~~ made the foregoing copy and that same is a true and complete copy of the original.

Subscribed and sworn to before me this July 22, 1901.

Commissioner.

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ALL INFORMATION CONTAINED
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DATE 11-11-00 BY 1043

COMMISSIONERS

HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Katie Adams et al, for enroll-
ment as Freedmen of the Cherokee Nation, one copy of the original
testimony of May 16th, 1901.

McClittle Smith

Attorney for Applicants.

Cherokee D#D330.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, IT., JULY 1st, 1901.

In the matter of the application of Malinda Beeson for enrollment as a Cherokee Freedman; said Beeson being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q. What is your name? A. Malinda Beeson.
Q. How old are you? A. 24.
Q. What is your post office address? A. Welch.
Q. What district do you live in? A. Cooweescoowee.
Q. Do you apply to be enrolled as a Cherokee Freedman? A. Yes, sir.
Q. Who do you want to enroll besides yourself? A. No one else.
Q. Are you married? A. Has been married.
Q. What was your husband's name? A. John Beeson.
Q. What is your father's name? A. William Tucker.
Q. What is your mother's name? A. Charlotte Tucker.
Q. Is William Tucker living? A. Yes, sir.
Q. Is Charlotte Tucker living? A. No, sir.
Q. Where were you born? A. Born in the Cherokee Nation.
Q. Lived in the Cherokee Nation all your life? A. Yes, sir.
Q. Never lived out of it? A. No, sir.
Q. Through whom do you claim your citizenship your father or mother?
Q. Either one.
Q. Have they been enrolled here? A. Yes, sir, my father is enrolled at Vinita.
Q. Where is your mother living? A. She is dead.
Q. Did you have a sister marry a man by the name of Banks?
A. Yes, sir.
Q. What is his name? A. William Henry.
Q. Is your name on any of the rolls of the Cherokee Nation?
A. Yes, sir.
Q. What roll? A. The Kern and Wallace.

The 1880 Authenticated roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon/

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 168, #4153, Malinda Tucker, Cooweescoowee District.

- Q. You say you were born in the Cherokee Nation? A. Yes, sir.
Q. Always lived in the Cherokee Nation? A. Yes, sir.
BY MR. J. S. DAVENPORT: Cherokee Free representative.
Q. Where were you married, Malinda? A. I was married in the Nation.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 141, #2956, Malinda Tucker, Cooweescoowee District.

BY COM'R NEEDLES:

- Q. You say you were married in the Cherokee Nation? A. Yes, sir.
Q. You are positive you have never lived out of the Cherokee Nation?
A. Yes, sir.

COM'R NEEDLES: Malinda Beeson applies for the enrollment of herself. She avers that she is the child of William Tucker and Charlotte Tucker. She avers that she is married now to one John Beeson; she cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton and Wallace rolls; she is identified upon said rolls according to the page and number of the rolls as indicated in the testimony. She makes satisfactory proof as to residence, and asks that the testimony taken in the matter of

Malinda Beeson.--42

the enrollment of her father, William Tucker, who is listed for enrollment on doubtful card #329, be made a part of the record in the case at bar, which will be done and copy thereof filed herewith. Said Malinda Beeson, nee Tucker, will now be listed for enrollment as a Cherokee Freedman upon a doubtful card. She will be notified at her post office address of the action of the Commission.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(SIGNED) J. O. Rosson

Subscribed and sworn to before me this 17th day of July, 1901.

(SIGNED) T. B. Needles,
Commissioner.

Mattie M. Pace, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony.

Mattie M. Pace

Subscribed and sworn to before me this 1st day of December, 1906.

B. P. Rasmus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications of:

William Tucker et al.,	Cherokee Freedmen D 329
Katie Adams et al.,	Cherokee Freedmen D 330
Lucinda Whitmire,	Cherokee Freedmen D 352
Sarah Foster,	Cherokee Freedmen D 739
Malinda Beeson,	Cherokee Freedmen D 969

DECISION.

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee freedmen were made to this Commission, in 1901, by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and his five minor children, William, Lettie, Mose, Edward and Sequoyah Whitmire; by Jerry Foster for himself, his wife, Sarah Foster, and his four minor children, Clara, Clarence, Carrie and Cora Foster, and by Malinda Beeson for herself. The applications made for the enrollment of Zeke Whitmire, William Whitmire, Lettie Whitmire, Mose Whitmire, Edward Whitmire, and Sequoyah Whitmire, applicants in C. F. D. 352, and Jerry Foster, Clara Foster, Clarence Foster, Carrie Foster, and Cora Foster, applicants in C. F. D. 739, have been heretofore determined, and are not included in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein except the applicants in C. F. D. 329, were born since the commencement of the war of the rebellion, and claim their rights

to enrollment as Cherokee freedmen by reason of being descendants of William Tucker, the principal applicant in C. F. D. 329, who, at the commencement of the war of the rebellion was the slave of a Cherokee citizen; that during said rebellion the said William Tucker removed from the Cherokee Nation to the state of Kansas, but returned to said Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation.

All of the applicants herein except the applicants in C.F.D. 329 and C. F. D. 352, have resided continuously in the Cherokee Nation from the date of their birth up to and including September 1, 1902, and William Tucker, the principal applicant in C. F. D. 329, has resided continuously in the Cherokee Nation from his return to said Nation in 1866, up to and including September 1, 1902.

William Banks, Irene Banks and Virdie Banks, the minor applicants in C. F. D. 329, were born since 1866, and are the children of one Mary Banks, who at the commencement of the war of the rebellion was the slave of a Cherokee citizen, and who, during said war, continued to reside in the Cherokee Nation; that about the year 1874, said Mary Banks removed to the state of Kansas, where she married one William Banks, a citizen of said state, and continued to reside therein until the date of her death in 1894. The evidence fails to show that said Mary Banks has at any time possessed any property in the Cherokee Nation.

In view of the above facts it is considered that said Mary Banks forfeited her right to citizenship in the Cherokee Nation, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

William Banks, Irene Banks and Virdie Banks, were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their said mother. None of the applicants herein can be identified on either the 1880 authenticated Cherokee roll or the 1896 Cherokee census roll.

The evidence further shows that Lucinda Whitmire, applicant in C. F. D. 352, died prior to September 1, 1902.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

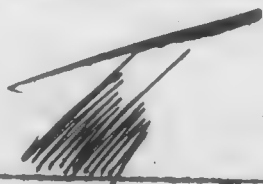
"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two and the names of all persons then living, and entitled to enrollment on that date, shall be placed on said roll by the Commission to the Five Civilized Tribes."

-3-

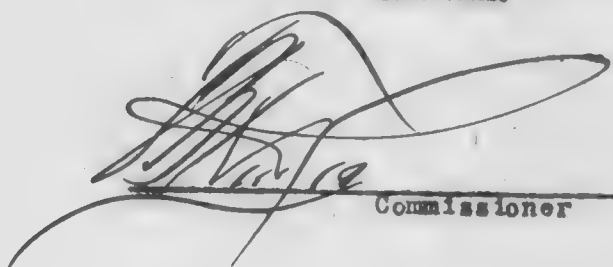
IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cera Adams, Himer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson, should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495); and that the application made for the enrollment of William Banks, Irene Banks and Virdie Banks, as Cherokee Freedmen should be denied, under the provisions of the Act of Congress above cited.

It is further the opinion of this Commission that the application made for the enrollment of Lucinda Whitmire as a Cherokee Freedman, be, and the same is hereby dismissed, under the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES



Chairman



Commissioner

Commissioner

Dated at Muskogee, Indian Territory,
this JUN 28 1905

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Katie Adams, D 330;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitnair, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

to be filed in Cherokee F D 329, 330, and 739.

Cher.F.D.-348.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 23, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of JULY MARTIN, ET AL., as Cherokee freedmen.

Appearances:

W. W. Hastings and L. E. Bell, Attorneys for Cherokee Nation.

Witnesses placed under the rule.

JULY MARTIN, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: State your name? A July Martin.
Q How old are you? A I guess I must be about forty-two, I reckon, or forty-three. I don't know for certain.
Q Were you born before the commencement of the war?
Q Yes sir, that is what they said I was.
Q What is your post office? A Chelsea.
Q Who was your father? A Aaron Martin.
Q Give me the name of your mother? A Queen Martin.
Q Were you the slave of a Cherokee citizen at the commencement of the war? A Yes sir.
Q Who did you belong to? A Belonged to John Martin.
Q He was a Cherokee citizen, was he? A Yes sir.
Q Were you taken out of the Cherokee nation during the rebellion?
A Yes sir.
Q Where did you go? A Went to Kansas.
Q When did you come back? A They said it was in '66, ~~and~~ Of course I don't know anything about when it was, I was too small to know anything about it when we came back. Father brought me back with him when he came.
Q You don't remember anything about it yourself? A No sir.
Q Where were you living when you first remember? A Was living on what they call the Cap. Hicks place.
Q In what Nation? A Cherokee Nation.
Q Have you lived in the Cherokee Nation ever since you can remember?
A Yes sir.
Q You applied for your wife and your children, Queen, Carrie, Annie, Wesley and Betsy? A Yes sir.
Q Are they all still living? A Yes sir, they are all still living.
Q But, your wife is dead? A Yes sir, she is dead.

AL. LYNCH, being first duly sworn, testified as follows on behalf of applicants:

BY COMMISSION: What is your name? A Al Lynch.
Q How old are you? A Sixty-three years old.
Q What is your post office? A Vinita.
Q Do you know July Martin? A Yes sir.
Q Who was his father? A Aaron Martin.
Q Give me the name of his mother? A Queen Martin.
Q Did you know Aaron Martin before the war? A Yes sir.
Q Did you know Queen Martin before the war? A Yes sir.
Q Were they both slaves of Cherokee citizens? A Yes sir.
Q Was July Martin born in slavery? A Yes sir.

Q Who did he belong to? A He belonged to - his mother belonged to Eliza Wright, and she went from Eliza Wright to John Martin, I don't know whether he owned them, or how it was, but he belonged to that outfit, that family.

Q Who did Aaron Martin belong to before the war? A John Martin.

Q Did Queen Martin belong to the same man or somebody else?

A Eliza Wright raised her. She was born and raised on Eliza Wright's place, and after Aaron Martin married her, John Martin got her. They lived there together.

Q Was Eliza Wright a Cherokee citizen? A Yes sir, John Martin's sister.

Q Did Aaron Martin and Queen Martin begin living together before the war? A Yes sir.

Q Was John Martin a Cherokee citizen? A Yes sir.

Q Do you know when July Martin came back after the war? A He came back with Aaron Martin in the summer or fall of '66, down there on Grand River.

Q Who else came with him besides Aaron Martin's father? Who else came with July Martin besides his father? A Andy Frye here, and old man Squire Martin, Squire Adair, old Peter Williams, Tebe Schrimaher, and Jake Martin's family. Jake didn't come himself, but his family came.

Q Did Queen Martin come at the same time? A Yes sir.

Q Where did you first see July Martin after the war? A The first time I saw him was down here on Grand River on the Jake Thompson place.

Q What Nation? A Cherokee Nation.

Q What district was that in? A Delaware District.

Q You think that was in '66? A I know it was.

Q What time of the year? A It was along the latter part of August or the first of October, something along there, I don't just remember exactly.

Q How long did July Martin and his parents live there at that time?

A They stayed there all that winter and the next spring. I don't know whether they stayed all winter, part of the winter anyway, and the next spring they moved over on the edge of Lynch's Prairie, on a place they used to call the Tucker place. I don't know how long they stayed there, but when he moved from there he moved over on Pryor Creek. He stayed there two or three years, I don't remember.

Q Were you living around in that part of the country at that time?

A Yes sir.

Q Who else was living there when July Martin and Aaron Martin came down? A There was --

Q What other colored people? A There was me and Crag and Arch, Simon, Art Williams, Rowe, and Nelson Moore down here, I believe that's all.

Q You say Crag, you mean Anderson Lynch? A Yes sir, and Moss Whitmire.

Q All those people were living around there when July Martin came back? A Around in that neighborhood.

Q How long has July Martin lived in the Cherokee Nation since that time? A He has been here all the time as I know of. If he has been out I never knowed it.

MR. HASTINGS: How old was he when he came back? A Well sir, I can't tell you just how old he was. He was small.

Q Was he born before the war or during the war? A He was born before the war. If I don't make a mistake now, I think he was born on old man Knight's place, with Bob Knight's father, she was hiding up there, either born there or born at John Martin's, I am not quite sure.

Q They came back in a wagon? A Yes sir, they came back in a wagon.
Q Do you remember whether it was July or August they came back?
A It was in October or July, I couldn't tell you exactly the month.
Q There is August and September now, in between those two months?
A Somewheres along that time, it hadn't got cold weather yet.
Q Are they related to you in any way? A No sir, no relation of mine.
Q How far did they settle from you? A I was living on that place there that George Clark had, it is about three miles and a half or four miles from where they went to settle. They moved into Dr. Thompson's house, and after they moved over there I left that old place, left the woman on the George Clark place, and went over there and stayed with them right in the house with them.
Q Where did July marry? A I don't know sir, about that.
Q Did he marry in that neighborhood down there? A No sir, out west somewheres, I don't know nothing about his marriage. I don't whether he has got a wife.

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Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Wm. Hutchinson.

Subscribed and sworn to before me this 26th day of October, 1905.

(Signed) Charles H. Sawyer.
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy from the original thereof, and that the same is, in part, a true and correct copy of the same.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Rasmus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications of:

William Tucker et al.,	Cherokee Freedmen D 329
Katie Adams et al.,	Cherokee Freedmen D 330
Lucinda Whitmire,	Cherokee Freedmen D 352
Sarah Foster,	Cherokee Freedmen D 739
Malinda Beeson,	Cherokee Freedmen D 969

D E C I S I O N.

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee freedmen were made to this Commission, in 1901, by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and his five minor children, William, Lettie, Mose, Edward and Sequoyah Whitmire; by Jerry Foster for himself, his wife, Sarah Foster, and his four minor children, Clara, Clarence, Carrie and Cora Foster, and by Malinda Beeson for herself. The applications made for the enrollment of Zeke Whitmire, William Whitmire, Lettie Whitmire, Mose Whitmire, Edward Whitmire, and Sequoyah Whitmire, applicants in C. F. D. 352, and Jerry Foster, Clara Foster, Clarence Foster, Carrie Foster, and Cora Foster, applicants in C. F. D. 739, have been heretofore determined, and are not included in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein except the applicants in C. F. D. 329, were born since the commencement of the war of the rebellion, and claim their rights

to enrollment as Cherokee freedmen by reason of being descendants of William Tucker, the principal applicant in C. F. D. 329, who, at the commencement of the war of the rebellion was the slave of a Cherokee citizen; that during said rebellion the said William Tucker removed from the Cherokee Nation to the state of Kansas, but returned to said Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, et al. vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation.

All of the applicants herein except the applicants in C. F. D. 329 and C. F. D. 362, have resided continuously in the Cherokee Nation from the date of their birth up to and including September 1, 1902, and William Tucker, the principal applicant in C. F. D. 329, has resided continuously in the Cherokee Nation from his return to said Nation in 1866, up to and including September 1, 1902.

William Banks, Irene Banks and Virdie Banks, the minor applicants in C. F. D. 329, were born since 1866, and are the children of one Mary Banks, who at the commencement of the war of the rebellion was the slave of a Cherokee citizen, and who, during said war, continued to reside in the Cherokee Nation; that about the year 1874, said Mary Banks removed to the state of Kansas, where she married one William Banks, a citizen of said state, and continued to reside therein until the date of her death in 1894. The evidence fails to show that said Mary Banks has at any time possessed any property in the Cherokee Nation.

In view of the above facts it is considered that said Mary Banks forfeited her right to citizenship in the Cherokee Nation, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

William Banks, Irene Banks and Virdie Banks, were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their said mother. None of the applicants herein can be identified on either the 1880 authenticated Cherokee roll or the 1896 Cherokee census roll.

The evidence further shows that Lucinda Whitmire, applicant in C. F. D. 362, died prior to September 1, 1902.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two and the names of all persons then living, and entitled to enrollment on that date, shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Deesen, should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495); and that the application made for the enrollment of William Banks, Irene Banks and Virgie Banks, as Cherokee Freedmen should be denied, under the provisions of the Act of Congress above cited.

It is further the opinion of this Commission that the application made for the enrollment of Lucinda Whitmire as a Cherokee Freedman, be, and the same is hereby dismissed, under the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(SIGNED).

Tarns Bixby.

Chairman

(SIGNED).

I. B. Needles.

Commissioner

Commissioner

Dated at Muskogee, Indian Territory,
this JUN 28, 1905

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Cherokee Freedman D 329
" " D 330
" " D 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JANUARY 25, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application
for the enrollment of WILLIAM TUCKER, ET AL. as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee Nation, James S. Davenport.

The records of this office show that on January 6, 1906, the applicants, their attorney, and the attorneys for the Cherokee Nation were duly notified by letter, that on December 16, 1905, the Secretary of the Interior remanded this case for further hearing as to the reliability of the applicants' witnesses, Luster Foreman and L. D. Daniels, and that they would be permitted to appear on January 25, 1906, and introduce further testimony, at which time the following proceedings were had.

W. C. CHAMBERLAIN, being first duly sworn, testified as follows:
on behalf of Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A W. C. Chamberlain.
Q What is your post office? A Vinita, Indian Territory.
Q How long have you lived at or near Vinita, Indian Territory? A I come there in 1874, , lets see, about 41 years.
Q Did you know Luster Foreman during his life time? A Yes sir.
Q How long did you know him before his death? A I knew him from about 23 or 24 years.
Q Did you know his reputation in the community in which he lived for being a truthful and reliable man?

By Brown: I object to that question in that form.

On Behalf of the Commissioner: Objection noted.

- Q Did you know Luster Foreman's reputation in the community in which he lived during his life time for truth and veracity?
A Yes sir.
Q Was that reputation good or bad? A It was bad.
Q From that reputation would you believe him on oath? A I would not.

BY BROWN:

- Q Mr. Chamberlain, Luster Foreman lived in Vinita for a number of years didn't he? A Yes sir.
Q You were personally acquainted with him during his life time and during the number of years he lived in Vinita? A Yes sir.

- Q Luster was one of those jolly kind of fellows that carried on a great many jokes with the people in and around town? A Yes sir.
- Q He was that kind of a fellow that every citizen who lived there always liked to joke with him in some manner? A Yes sir.
- Q Did you ever have any business relations with him? A I don't know whether I did or not, I must have had some, I don't remember any particular business.
- Q Can you remember any you have ever had with him? A No sir.
- Q Now then on business matters, business obligations and matters of that kind, are you prepared to state to this commission that you would not believe him on oath?

Mr. navenport: I object to that as not being a proper question with reference to a man's truthfulness.

On Behalf of the Commissioner: Objection noted.

- A No sir, I would not.
- Q Are you testifying as to what you know personally about this man?
- A Well what I have heard and know too.
- Q Who did you ever hear say that Luster Foreman wasn't to be believed? A Well I don't remember any particular person, the general community though would not believe him.
- Q Yet you cannot give us the name of a single individual who told you they would not believe him, can you? A I don't remember any particular person.
- Q Mr. Chamberlain did you ever hold any official position in the town of Vinita? A Yes sir.
- Q What positions have you held? A I have held all the positions offered there in the town.
- Q You used to be Mayor of the town? A Yes sir, several times.
- Q Luster Foreman has testified in your courts? A I don't remember of any times.
- Q Are you willing to say he hasn't testified? A I don't remember of his being in court before me.
- Q Don't you know as a matter of fact that he has been a witness several times and upon his testimony you rendered a decision and assessed a fine and punishment to the defendant? A No sir, I don't remember any particular case.
- Q Would you swear you haven't done that? A No sir, I don't remember what case I tried, it may be a matter of record there, I was Mayor 4 or 5 years there at different times.
- Q You can't give this Commission the name of a single individual who has ever told you that Mr. Foreman's reputation for truth and veracity is bad, and that they would not believe him on oath, can you? A Why I could I suppose, if I would remember the names, I don't remember any particular one though.
- Q Luster was what we sometimes term a jolly good fellow and told a great many tales which most everybody in the community and we all looked upon that way? A I don't remember of him telling many tales, he was sort of a darkey,--- you know how he was.
- Q Isn't that the truth, wasn't he one of those fellows that every time you meet him you expected him to tell something new, and when you passed around the neighborhood wasn't he a sort of a good old darkey that had something new to say to you? A He was on that order.
- Q Don't you know as a matter of fact that the Attorneys for the Cherokee Nation at the time the Commission to the Five Civilized Tribes commenced to make a roll of freedmen citizens of the Cherokee nation, employed Luster Foreman to assist them in determining who were the citizens and also introduced him in a large number of cases as a witness in their behalf? A I don't know that.

- Q Don't you know as a matter of fact that John W. Wallace, representing the United States Government, and the man who made what is known as the Wallace roll, that in making that roll carried with him Luster Foreman, and that Luster Foreman's testimony was used in a large number of cases upon which the Wallace roll was made?
- A I don't know.
- Q Don't you know as a matter of fact that he did testify in a large number of cases before the Wallace court? A I have heard he did, but I don't know myself.
- Q You resided in Vinita at that time? A I think I was at Tahlequah at that time.
- Q Didn't you reside in Vinita when Mr. Wallace was in Vinita making the roll? A I don't know that for sure, what year was that?
- Q '89? A I was at Tahlequah at that time, my home was there but I was at Tahlequah.
- Q As a matter of fact don't you know Luster was there?

Mr. Davenport: I object to that because the Cherokee Nation was not represented before Wallace in making that roll and he might have used the most unreliable men in the world in making that roll.

By Brown: In reply to that the attorney for the applicants desires to state that the records of the department show that the Cherokee Nation were given an opportunity to be represented at that hearing and that they refused to appear, and they are therefore bound to whatever Mr. Wallace did.

Mr. Davenport: To that the Cherokee nation's representatives state that the Department has held that they are not bound by that, and not even in the Kern-Clifton roll made several years later.

On Behalf of the Commissioner: Objection noted.

WITNESSES EXCUSED.

GEORGE W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A George W. Clark.
- Q What is your post office? A Vinita, Indian Territory.
- Q How long have you lived at Vinita and near there? A I have lived there and near there 41 years.
- Q Did you know Luster Foreman during his life time? A Yes sir, I know Luster.
- Q Did you know his reputation in the community in which he lived prior to his death for truth and veracity, that question can be answered yes or no? A Yes sir.
- Q Was that reputation good or bad? A Well it wasn't county very good, Luster wasn't.
- Q From that reputation would you believe him on oath where he was interested in any matter?

By Brown: The question is objected to it not being properly put.

On Behalf of the Commissioner: Objection noted.

A Well I would not myself.

BY BROWN:

- Q Mr. Clark if he wasn't interested in the matter at all would you believe him on oath? A Well I would have to know it myself, I was acquainted with him along time, I knew him when I soldiered.
- Q Now coming up as to the matter as to when some person possible returned within a certain neighborhood and taking your knowledge of his reputation and taking the man as you knew him, would you believe him? A There is where he broke my confidence, in testifying in these cases.
- Q Are you testifying what you know yourself? A Yes, there is where he broke my confidence.
- Q How close do you live to Vinita? A I live in the town of Vinita now.
- Q How close did you live to the town of Vinita prior to the time Luster Foreman died? A I don't remember just how long I had lived there prior to Luster's death.
- Q How long did you live on your farm there south east of Vinita? A There in that neighborhood 41 years, not on the same farm.
- Q When did you first go on that farm? A I went up there in 1865, been there in the neighborhood ever since.
- Q The truth is you have lived on a farm southeast of Vinita? A Southeast and southwest ever since the war.
- Q How long have you had a residence in the town of Vinita? A 20 odd years.
- Q Do you mean by that that your family has resided in the town of Vinita for that number of years? A That is what I mean first and last.
- Q Now lets get at it as it is, how long has your family resided continuously in the town of Vinita? A Well I don't exactly recollect the year we moved there, but I know 20 years ago this coming February my family was living there off and on and I stayed all night there with my folks. There was a snow fell there 22 inches deep.
- Q Isn't it a fact until a year or two ago that you spent most of your time out on the farm? A Yes most of my time, I generally went home sometimes twice a week and sometimes once a week, and sometimes 3 or 4 times a week.
- Q Luster Foreman was one of those old plantation darkies and always had something funny to tell you and some joke when you met him? A Always yes.
- Q Every time you met him didn't you expect him to tell you something funny? A Yes.
- Q He was simply one of those jolly good fellows that you always liked to meet? A Yes, we all picked at him.
- Q And he always told you some funny tale or story that you didn't believe? A Yes.
- Q Nobody never came to you and told you they wouldn't believe Luster Foreman on oath did they? A I don't know as anybody did.

BY MR. DAVENPORT:

- Q You have heard a great deal of talk of how Luster would swear & haven't you? A

By Brown: Objected to on the ground the question is leading and suggestive to the answer.

On Behalf of the Commissioner: Objection noted.

- A I have heard a right smart outside talk how he would swear in regard to these claim cases.

BY BROWN:

- Q Who ever talked about that Mr. Clark? A Well I have heard it in just a general conversation.
- Q Can you name a single person that you have heard say that? A Well I suppose I could.
- Q All right lets have the person? A Well I have heard Mr. McClellan
- Q That is Charles McClellan is it? A Yes.
- Q He is a witness here in the case? A I believe he is.
- Q Who else? A I have heard Captain Bell speak about him.
- Q You mean L. R. Bell? A Yes.
- Q Who is Attorney for the Cherokee Nation? A Yes.
- Q Who else? A Well I have heard various ones.
- Q These are the only persons whose names you can call is it?
- A Well in conversation around I have heard a good many but didn't exactly recollect, I have heard them say that they would not believe him on oath
- Q You have heard a great many? A Yes.
- Q And the only persons whose names you can call is Charley McClellan, a witness in this case, and Col. L. R. Bell, one of the attorneys for the Cherokee Nation? A Well I guess it is.
- Q How when was it you had this conversation with Mr. McClellan when he stated he would not believe Luster Foreman on oath? A I don't remember.
- Q When was the last time? A I don't remember.
- Q About how long as it been ago? A I don't remember.
- Q Has it been since you were subpoenaed as a witness in this case?
- A No, I haven't talked to any of them since then, I was just subpoenaed day before yesterday.
- Q You came down on the same train with Mr. McClellan did today didn't you? A No, I think he come from Claremore, I understood him to say he got in here last night.
- Q How long has it been since Mr. McClellan lived in and around Vinita? A It has been sometime.
- Q About how many years? A Since he lived there?
- Q Yes sir? A I don't know as he ever did make his home there.
- Q The truth is Charley McClellan never lived in the town of Vinita in his life? A No, I don't believe he did, he has been there and owned property there but I don't think he ever made a residence there.
- Q When was it you talked to Col. L. R. Bell about this man's reputation as to truth and veracity? A I don't know as I had very much talk about it at all, he told me he wanted me to come down here in this case.
- Q And that was the time he told you that he would not believe Luster on oath? A I don't know as it was, he asked me if I would believe him on oath.
- Q It is just a question now isn't it? A No, not now cause he is dead
- Q And that is the only reason now? A No, I wouldn't believe him if he was alive.
- Q When was it you talked to Mr. L. R. Bell, one of the attorneys for the Cherokee Nation in which he stated to you or in your presence that he would not believe Luster Foreman on oath? A I can't remember when it was. When he asked me he said he wanted to try to impeach Luster.
- Q Did Col. L. R. Bell ever state to you that he would not believe Luster Foreman on oath? A I don't believe he did.

BY MR. DAVENPORT:

- Q Luster lived around Vinita there ~~xxxx~~ for several years didn't he?
- A Yes sir.
- Q What did he do around there? A He lived around there and I think worked around right smart for the town I didn't pay any attention to him, had more business of my own that I could attend to.

VITNESSES EXCUSED.

CHARLES M. McCLELLAN, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. DAVENPORT:

Q What is your name? A Charles M. McClellan.

Q What is your post office? A Claremore.

Q How long have you lived at or near Claremore? A Well, I moved up in that country in 1870 I believe it was.

Q Did you know a fellow by the name of L. D. Daniels? A Yes sir.

Q How long have you known him? A I don't recollect, I have known him a long time.

Q Did he ever live in Claremore or in that community near Claremore?

A Yes sir, I think he lived there, I don't know just exactly how long but a year or so, maybe a year and a half.

Q Did you know him before he lived there? A Yes sir.

Q Where was he living when you first knew him? A He lived way above there somewhere but he used to always be at Court and around.

Q Did you know him when he lived in or near to Claremore? A Yes sir.

Q How far is that to where you lived? A About 7 miles.

Q Where was your place of marketing and going to post office? A He lived in Claremore and that was my post office.

Q Do you know his reputation in the community in which he lived there at Claremore for truth and veracity? A I think I do, yes sir.

Q Do you know his reputation in the community in which he lived upon the Verdigris River, for truth and veracity.

Mr Brown: At this time I ask the attorney for the Nation to confine his questions to the neighborhood in which L. D. Daniels resided.

Mr. Davenport: The attorney for the Cherokee Nation is asking the questions and if he is making any objections let him make them. I have asked him if he knew his reputation in the community in which he lived on the Verdigris River.

A Yes sir, I think I do.

By Brown? A The answer is objected to for the reason the witness should state yes or no.

On Behalf of the Commissioner: Objection noted.

A Yes.

Q Did you ever know of him living in any other community other than the community on the Verdigris River above Claremore and the Claremore community? A I don't know just where he lived but he was nearly always at Court there.

Q Was his reputation in which he lived at Claremore for truth and veracity good or bad? A Bad, very bad.

Q Was his reputation on the Verdigris River where he lived for truth and veracity good or bad? A Bad.

BY BROWN:

Q How long have you lived in and around Claremore? A About 35 years.

Q How long had you been living in and around Claremore until you became acquainted with L. D. Daniels? A I don't know, I think I knew L. D. when I first went up there.

Q Where was he living then? A I think up somewhere about Coody's Bluff, I am not positive where he did live I would only see him at the Court house.

- Q When you would see him around the Court house what would he be doing? A Oh spouting some of his big yarns, you know what a great gasser he is, you knew him.
- Q About how often would court meet at Claremore at different times? A Oh at different times.
- Q How often? A I don't know how often, just owing to the amount of business they had, at elections and court.
- Q How long did he live in and around Claremore where you have lived? A I think he made his home there something near two years.
- Q About when was it he moved in that vicinity, about what year? A I don't recollect what year he moved there.
- Q What is your best judgment? A Well I have seen him there, I never was about his house, I don't know just when he did move there, but I had seen him there after he was living there, he told me himself here a few years ago but what time he come and when he left I don't know.
- Q What is your best judgment? A I don't know when he moved.
- Q You don't know the year? A No.
- Q Don't you know about what year? A He has been off and on there all the time, I don't know just when he told me he was living there, that has been about some 3 or 4 years ago I guess.
- Q It was after the Commission to the Five Civilized Tribes commenced to make the roll of Cherokee freedmen that L. D. Daniels moved in the vicinity of Claremore, wasn't it? A I don't know just when he moved there, he used to be there, but I know he told me he was living in town, that has been some 3 or 4 years ago, I don't know just exactly the date, I didn't come to town very often but in public gatherings always found L. D. there.
- Q L. D. Daniels was a very prominent man in politics, about as prominent as a man of his color? A Yes to hear him tell it.
- Q You expected him when you went there? A I pretty near always seen him, didn't expect it that I remember of.
- Q Who ever told you that they would not believe L. D. Daniels on oath? A If I have heard one I have heard fifty.
- Q Name one? A I don't know who all I haven't heard.
- Q Name one? A All my associates there that I know, I have talked about him, Clem Rogers, Major Lipe.
- Q He is dead? A Major Lipe dead, when did he die?
- Q Who else? A Watt Starr, he just died a few days ago.
- Q Who else? A Everybody I have heard talking about it, well I don't recollect every man I have heard talk about him.
- Q Now these are three persons you have heard talk about him, one of which is dead, you say there about fifty? A There might have been twice fifty, I never ~~heard~~ heard anybody say anything else about him.
- Q Now can you name another individual that told you that they would not believe L. D. Daniels on oath? A Yes.
- Q All right? A Bean Murgis, I don't know everybody that I have heard talk about him.
- Q Now that is four, it is very important that you name them, now name another? A Everybody that I know of.
- Q Call some of their names? A Well I don't recollect who all.
- Q Of the large number of people you have heard talk about him you can name those four? A Well I can't ~~name~~ remember everybody that I have heard talk about him.
- Q Name some of them? A Davenport.
- Q That is J. S. Davenport one of the Attorneys for the Cherokee Nation? A He and him have talked about it.
- Q One of the attorneys for the Cherokee Nation? A That is what I understand he is attorney.
- Q Now name another? A Bill Chambers and Teece Chambers.

- Q You have heard Teece talk about him? A Yes, all I ever heard him say about him, it is just common talk that L. D. Daniels is the biggest liar on earth.
- Q Is there any one else you can recollect? A All my neighbors around there that I have heard talk about him.
- Q When was it you had a talk with Clem Rogers in which he told you that he would not believe L. D. Daniels on oath? A I don't recollect the date.
- Q Tell me the year? A Well I think I heard him say so right recently.
- Q Now when was it with reference-----? A How do you expect to recollect the date about which-----
- Q When was it in reference to the time you were subpoenaed in this case? A I think we were talking about it last week.
- Q In reference to the time you were subpoenaed as a witness in this case? A I think that is the way this conversation came up, I told him I was subpoenaed down here in this case and we were talking about it.
- Q Did you bring the matter up with him or he with you? A I don't recollect that.
- Q Where were you standing? A I don't remember that, over there in Claremore though.
- Q Don't you remember what place it was? A No, I don't.
- Q When was it you had a conversation with Major Lipe and he told you he would not believe L. D. Daniels on oath? A It has been along time ago.
- Q About how long ago? A I couldn't say, two or three years, a year or so, we are close neighbors.
- Q Since the Commission to the Five Civilized Tribes began making a roll of Cherokee freedmen? A I think it was.
- Q When was it you talked to Watt Starr? A I don't remember that.
- Q What is your best judgment? A Sometime--I think the last time I was at his house, somet me this last fall.
- Q And this fellow Bean Burgis when was it you talked to him about it? A I think we were talking about it since I was subpoenaed down here.
- Q Who brought the conversation up, you or he? A I don't remember anything about that.
- Q When was it you talked to Writpavenport about it? A I don't recollect, it seems to me about a year or two.
- Q Since the Commission has commenced to make a roll of Cherokee freedmen was it? A Yes, since then.
- Q When was it you talked to the Chambers boys about it? A I don't remember.
- Q Your best judgment? A Within the last 3 or 4 years.
- Q In all these conversations that you have had in which parties have told you that they would not believe L. D. Daniels on oath how would the conversation come up? A Just be talking generally that is just common talk there at Claremore, that he is the biggest liar on earth and wouldn't believe him.
- Q These people just come up and told you that they wouldn't believe him? A It was just common talk.
- Q Can you remember anything else that you talked about in those conversations except what these people told you in regard to L. D. Daniels? A Just talked about what we thought he would say.
- Q Can you remember anything else you talked about besides this? A I don't know as I do.
- Q You are a citizen of the Cherokee Nation by blood? A No.
- Q By adoption? A Yes.
- Q Your family are Cherokees by blood? A Yes.

- Q You are prejudice to some extent against persons claiming citizenship because they were former slaves of Cherokees? A Well ~~but~~ I don't know but what I am.
- Q Do you know Mr. Chamberlain who has just testified in this case?
- A Yes sir.
- Q Did you ever have a talk with him about L. D. Daniels and Luster Foreman? A I don't remember that I ever did, I don't remember every little conversation that has come up, I might have been in company with somebody else, I don't remember such things. I know the common belief so far as L. D. Daniels, what the people say where we live where he has been.
- Q Do you remember when John W. Wallace made what is known as the Wallace roll? A Yes.
- Q Were you in and around his court during that time? A I don't think he was.
- Q Who subpoenaed you? A Mr. Bell had me subpoenaed.
- Q When? A Last week.
- Q The truth is Mr. McClellan about all the conversations you have had with reference to this particular matter has been since you were served with the subpoena? A With these different parties.
- Q The parties whose names you have given this Commission? A In regard to L. D. up there since that?
- Q Yes? A Some of it has and some has not.
- Q All of the conversations have been since the Commission commenced to make a roll of the Cherokee freedmen? A I have heard people speak about old L. D. 20 years ago, he was the biggest liar on earth.
- Q Did you live in the vicinity in which L. D. did? A I lived in Cooweescoowee District and he did and he was there. He would stand around and gag and fellows would say that is some of L. D.'s lies.
- Q You don't know where L. D. lives now, do you? A No.
- Q You don't know how long it has been since he ~~lived~~ left the town of Claremore? A No.

W I T N E S S E X C U S E D .

BEAN BURGIS, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A Bean Burgis.
- Q What is your post office address? A Claremore.
- Q How long have you lived in Claremore? A 19 years.
- Q Do you know L. D. Daniels? A Yes sir.
- Q Did he ever live in Claremore? A Yes sir.
- Q How long have you known L. D. Daniels? A I have knowed him for years, several years.
- Q Do you know what his reputation in the community of Claremore in which he lived at one time is for truth and veracity?

By Brown: Object to that on the ground it is incompetent.

On Behalf of the Commissioner: Objection noted.

A Yes sir.

- Q Was that reputation good or bad? A Well it was bad.

BY BROWN:

- Q Who told you it was bad? A People generally all told me.
- Q Well now name one? A One that said it was bad?
- Q Yes sir? A I could mention several.
- Q Mention one? A Well the Chambers, one or two of the Chambers.
- Q They was the same Chambers about which Charley McClellan testified?
- A I don't know what Charley McClellan testified to.
- Q Well now when you say the Chambers who do you mean? A The Chambers family.
- Q What are their names? A There are several of them, big family of the Chambers, William Chambers, Teece Chambers and there were several of them.
- Q Who else told you that L. D. Daniels reputation for truth and veracity was bad? A Well I never paid any attention to who it was bit it was generally spoken.
- Q Who generally spoke it? A All of them.
- Q Name some of them? A Well Charley McClellan.
- Q Charley McClellan is a witness in this case? A I don't know.
- Q He is here isn't he? A Yes sir.
- Q He came in this room and testified just before you did? A I don't know, I wasn't out there, he might have.
- Q Well who else? A Well there are lots of them, I don't recollect their names, it is the general impression of the people.
- Q Now you have named the Chambers boys and Charley McClellan, can you name any one else? A Not in particular, there are lots of them.
- Q When was it Teece Chambers told you he would not believe L. D. Daniels on oath? A He never told me that.
- Q Well did William Chambers tell you that? A He never told me that.
- Q When was it Charley McClellan told you? A I have heard him say several times.
- Q When? A I never set the date down.
- Q When was the first time? A I don't recollect.
- Q When was the last time? A I don't know.
- Q Did he ever? A Yes.
- Q Well when? A I told you I don't recollect, I heard him tell it to a crowd.
- Q Who was in the crowd besides you and McClellan? A I don't know, I never looked around to see who was in the crowd.
- Q Was there any one in the crowd when he told you that? A It was just the general impression of the people.
- Q Was there any one else in the crowd? A Lots of them.
- Q The only person you remember was Charley McClellan? A He was talking.
- Q He is the one that did the talking? A Yes.
- Q And he is the one that is a witness here today? A I guess so.
- Q Where was this conversation held when Charley McClellan told you he would not believe L. D. Daniels on oath? A In Claremore.
- Q Whereabouts? A In the town.
- Q In the north, south, east or west? A Neither one, about the middle.
- Q In what place? A On Main Street.
- Q What place of business? A Well, several places of business along there.
- Q Name one? A Close to the Drug Store, close to the Hotel, and close to the restaurant on the public street there between all those houses.
- Q Now when was it? A I don't know exactly I never set the date down.
- Q What is your best judgment? A It has been sometime ago.
- Q Was it 20 years ago? A No.
- Q Was it five days ago? A It has been longer than 5 days ago.

- Q Give your best judgment? A Do you want me to tell the day.
Q I want you to tell as near as you can? I told you as near as I can, it was on the street where he said it.
Q You don't know when it was? A No.
Q You don't know where it was? A I told you where it was.
Q Could you swear it was on Main street? A Yes.
Q Can you give the name of a single individual outside of Mr. McClellan who were present when you had this conversation? A I told you once, I don't know who all were around there.
Q But you did know Charley McClellan? A Yes, because he was talking.
Q Were you looking at the rest of them? A Yes, I sometimes looked around.
Q How did this conversation come up? A Well I don't recollect how it come up, what first started it or nothing of the kind.
Q All you know----? A I heard some of them, some men made a remark and said we understand that they are going to get after L. D. Daniels about swearing some folks in on the roll.
Q That is since McClellan was subpoenaed down here as a witness?
A I don't know as it was.
Q How long have you known L. D. Daniels? A For a number of years.
Q Where does he live now? A I don't know exactly where but way up towards Coffeyville somewhere.
Q Have you ever been to his house? A No sir.
Q Do you know what his post office address is? A No sir.
Q Do you know how far he lives from the railroad? A No sir.
Q You don't know where he lives do you? A I know he lives up the other side of Claremore.
Q How do you know? A He said so.
Q How long did he live in and around Claremore? A A year or two.
Q Have you talked with anybody about this case since you have been here? A No.
Q Not a soul? A No.
Q Did you tell anybody that you had had a conversation with some parties in which Mr. McClellan told you that the reputation of L. D. Daniels for truth and veracity was bad? A No.
Q Have you had a conversation with any man in which you have told him? A No.
Q Then will you explain to this Commission why it was you were subpoenaed here as a witness?

Mr. Davenport: I object to that, it isn't necessary why he should explain why he was here as a witness.

On Behalf of the Commissioner: Objection noted.

- A As far as that is concerned, I haven't talked to any of the Commission.
Q But have you talked with anybody else representing the Cherokee Nation? A I have talked with lots of people but not in regard to the case.
Q Did you know that you were going to be asked when you came upon this witness stand as to the reputation of L. D. Daniels in the community in which he lives in regard to his truth and veracity?
A No, I was subpoenaed down here in the L. D. Daniels case.
Q Didn't you have a conversation out in the hall just awhile ago with Joe Davis in which you stated that you didn't know anything about L. D. Daniels reputation? A I don't know Joe Davis.
Q Do you know Lum McQuair? A Yes, we were all talking out there and I have found out here since I have been here and I said if the balance of them didn't know no more than what I do, I don't know what they will do.

- Q You say you have found out since you came here what you came here for, now you did have a conversation out there in the presence of Joe Davis and Lum McGair? A Yes.
- Q That was prior to the time you were called in here to testify?
- A Yes.
- Q At that time didn't you state that you didn't know anything on earth about the reputation of L. D. Daniels? A No/

W I T N E S S E X C U S E D .

GEORGE W. CLARK RECALLED:

BY LOUIS T. BROWN:

- Q Mr. Clark you are a citizen of the Cherokee by blood? A Yes sir.
- Q You naturally have some prejudice ag inst persons claiming citizenship by reason of the fact that they were former slaves of Cherokee Indians?

Mr. Davenport: I object to that, he has got no right to call and make a witness his own and show his prejudice or bias one way or another.

On Behalf of the Commissioner? Objection noted.

- A I don't know as I have. I think it was a bad Treaty that put them in but then I have got to abide by it.
- Q You would not swear that you haven't? A Yes I would swear that I have none against those that returned within six months after the ratification of the Treaty. I have been witness for several of them in their behalf where they returned.
- Q You have testified in a great number of freedmen case for the Cherokee Nation? A I have testified in several, yes.
- Q You are the same Mr. Clark who testified that the Horse Creek Fight occurred in 1867, are you not? A I am the same identical man.

W I T N E S S E X C U S E D .

JERRY FOSTER, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q What is your name? A Jerry Foster.
- Q What is your post office address? A Eaton, Indian Territory.
- Q About what is your ag-? A I am 50 somewhere, I don't know exactly what.
- Q Do you know the applicant William Tucker? A Yes sir, I have known him all my life.
- Q When did you see him, if at all, for the first time after the close of the war?

Mr. Davenport: Now the representative of the Cherokee Nation object to going into the original case unless it be understood now that if testimony be brought out on the original case that this case be continued until such a time that the representatives of the Cherokee Nation have time to get testimony to rebut it, it being understood that the case set today was on the ground for the impeachment of Luster Peruman and L. D. Daniels.

Louis T. Brown: The applicants desire to state that this case was sent back to the Commissioner for the purpose of permitting the Cherokee nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, and also stated that the applicants would have an opportunity to rebut what testimony the Cherokee Nation might introduce. The applicants desire at this time to prove by the witnesses they shall introduce that when L. D. Daniels and Luster Foreman testified that when the applicant was in the Cherokee nation in the fall of '66 that they testified to what was true, and in the mind of the applicants it is clearly admissible.

On Behalf of the Commissioner: Objection noted.

- A The first time I seen him after the war we moved from Fort Gibson upon Grand River and I saw him at Bunk Markham's store, in the fall of '66.
- Q Had you known him prior to that time? A Yes sir, ever since I was a boy.
- Q And when you saw him at Bunk Markham's in the fall of '66 did you recognize him? A Yes sir, I did.
- Q Have you known him continuously since that time? A Yes sir.
- Q Where has he resided? A He has been living up here on Cabin Creek quite awhile, for years.

BY MR. DAVENPORT:

- Q How old are you now jerry? A I am 50 some odd.
- Q And how near did you live to Tucker before the war? A It must have been, not over ten miles. if that far.
- Q What became of you during the war? A I stayed here at Fort Gibson.
- Q What relation are you to Tucker? A I am no relation to him.
- Q By marriage? A Only by marriage.
- Q What is that? A I married his daughter.
- Q Your wife then is William Tucker's daughter? A Yes sir, she is.
- Q Well after the war you moved from Fort Gibson to what place?
- A Upon Grand River to the Martha Vann place.
- Q Who was living there? A Sam Downing and Lewis Downing. And lot of Indians around there.
- Q That is on the west side of Grand River? A No sir, on the east side of Grand River.
- Q What time of the year did you go up there? A We moved up there in the spring along in April when we left Fort Gibson.
- Q That was what year? A It was in '66. '65 I raised a crop over there in the bottom at Gibson and in '66 moved upon the Lewis Downing place.
- Q And Tucker came there when? A It was in the fall of '66 when I saw him there at Bunk Markham's store.
- Q Where was the store? A It was right up a hollow there.
- Q How far from the Martha Vann place? A It must be three miles.
- Q Was it on the west side or east side of the Grand River? A On the east side.
- Q Near whose place was this store you saw him at? A It was Bunk Markham's place.
- Q Was Bunk living there at that time? A Yes sir, running a store there.
- Q You never saw William Tucker at that time until after Bunk Markham opened up his store? A He had his store opened up when I went there.

- Q Who was with Tucker at that time? A He was the one, I knew there was a lot of people that lived around there, Eli Vann, George Vann, Spring Creek George--
- Q Well where did Tucker locate then? A Over there close to Joe Vann's, in there somewhere.
- Q Don't you know where he located? A No sir, I don't, I didn't go over to where he lived.
- Q Then how long after that until you saw him again? A I saw him several times until I moved back to Gibson.
- Q How ~~often~~ near have you lived to Tucker since that time? A Of course, I don't live right at him, I have got a place right at him, I have known him all my life.
- Q When were you and his daughter married? A About 16 years.
- Q Where was Tucker living when you and she were married? A On Cabin Creek where he is living now.
- Q What part of Cabin Creek? A 12 miles south of Chetopa.
- Q How long has he been living at that place? A It has been ever since, went up there in '67, seems like as near as I can remember.
- Q Were you up there at that time to know that he went there in 1867? A I passed through there from up there on Grand River as I be going to the Lynch settlement. We boys used to go up there to work.
- Q You didn't pass his house going to the Lynch settlement from Fort Gibson did you? A No sir, I was going to the State to work.
- Q How many years has Tucker lived in the state since the war? A I don't know of him living in the State only what little time he go to town when he was trading.
- Q He never came back to Fort Gibson after the close of the war? A Yes sir, my mother saw him there.
- Q Do you know of your own knowledge? A I am just going what my mother told me.
- Q I am asking you what you know yourself? A I saw him on Grand River.
- Q You moved from Fort Gibson up there? A Yes sir, early in the spring, in April.
- Q You hadn't seen Tucker in Fort Gibson before you moved away from there? A No sir, I hadn't.
- Q And you didn't see him until after Bunk Markham opened his store up there? A Yes sir, he was running the store there then.
- Q And since that time you have been seeing William Tucker upon Big Cabin near the Kansas line? A Yes sir.
- Q You live where? A Up here on Gooseneck on Cedar Creek.

ON BEHALF OF THE COMMISSIONER:

- Q About how old are you? A I am 50 some odd I don't know exactly 53 or 54.
- Q You stated that you knew the applicant, William Tucker, before the war? A Yes sir, I did.
- Q Do you remember seeing him before the war? A I guess I have.
- Q Do you remember? A Yes sir.
- Q About how old were you then? A I don't know just exactly I was a slave, I was raised up like a hog, they didn't tell us our ages, I was a great big boy, I drove teams during the war.
- Q Are you a Cherokee freedman yourself? A Yes sir.
- Q Is your wife living now? A Yes sir.
- Q Her name is Sarah? A Yes sir.
- Q Are your children Clara, Clarence, Carrie, and Cora all living? A Yes sir.

BY LOUIS T. BROWN:

- Q Does your name appear upon the Authenticated roll of 1860? A Yes sir.

WITNESSES EXCUSED.

COLUMBUS MCNAIR, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Columbus McNair.
Q Your post office address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear on the Authenticated roll of 1860? A Yes sir.
Q Do you know the applicant, William Tucker? A Yes sir.
Q About how long have you known him? A I have known him ever since about the commencement of the war.
Q When did you see him for the first time after the war? A The first time I ever saw him after the war was along about in November, '66.
Q Where? A In Port Gibson.
Q In the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q What was that when you saw him after the war? A I saw him in November '66.
Q Where? A Port Gibson.
Q How old was he then? A I don't know anything about his age.
Q How old were you? A I guess I must have been about 16 or 17.
Q How old are you now? A I am 55, next birth day 56.
Q How long had you known William Tucker then, before you saw him at Port Gibson? A When I first got acquainted with him it was at Webbers Falls along about the commencement of the war.
Q How old were you when the war commenced? A I was 11 years old.
Q You saw him at Port Gibson in November, 1866? A Yes sir.
Q How many did you see there at that time? A I don't know.
Q Did you see a whole host of people there in '66? A I saw lots of them, I saw lots of soldiers there.
Q About how many cases have you testified in? A Not a great many that I know of.
Q How many different places were you in November, 1866, and saw people? A I come right on down from Sequoyah District and come up there in November and stopped there with Joe Kell and went on from there to Cabin Creek.
Q How long were you with William Tucker there at port Gibson at the time you saw him? A I never saw him there only about one day.
Q You saw him about one day? A Yes sir.
Q You had seen him once or twice before the war? A Yes sir, he was ever frequently around the place there.
Q Did he live near Webbers Falls before the war? A No sir, he was over there at Bill Holts.
Q Where were you? A I stayed right over there close to Bill Holts at McDaniels.
Q You were a small boy? A Yes sir.
Q And Tucker was a grown man? A Yes sir.
Q And you just met him at Port Gibson and recognized him as being the same man? A No sir, he made himself known to me and I remembered who he was.
Q Tucker recognized you as being the boy he had seen? A Yes sir.
Q And he made himself known to you? A Yes sir.
Q When did you think of that first after you went away from there that you had met Tucker there at Port Gibson? A Yes sir, I have seen him frequently since.
Q Have you testified in this case before? A No sir.
Q And he has been an applicant for citizenship for the last 25 years? A I don't know that.
~~Q You know that he has not been a recognized citizen?~~
Q You know that he has not been a recognized citizen? A I couldn't say that, I don't know.

- Q When he come to get you to testify he told you he had not been recognized? A Well I don't know Mr. Davenport.
- Q You are the same Columbus McNair that has testified in many cases? A Yes sir.
- Q There is no other colored man living by the name of Columbus McNair that knows as many freedmen, colored persons, as you? A I don't know of any Mr. Davenport.

BY LOUIS T. BROWN:

- Q In addition to the freedmen cases you have testified in on part of the applicant, you have also testified on behalf of the Cherokee Nation in several cases? A In some cases, yes.
- Q When the Commission to the Five Civilized Tribes commenced to make a roll of freedmen you were in their employ were you not? A Yes sir.
- Q And you were used as a witness in several cases? A In some cases I was, yes.

BY MR. DAVENPORT:

- Q Tell me one of the cases you have testified in for the Cherokee Nation? A Well of course I can't think of them.
- Q Well I want to know? A I knew there was some cases they called me on for the Cherokee Nation, of course I was satisfied the people were not citizens.
- Q You can't remember a single case you were called? A Yes sir, I can remember some of them.

W I T N E S S E X C U S E D .

Mr. Davenport: The representative of the Cherokee Nation ask that the case be continued until February 8, 1906, to enable them to get testimony to rebut the testimony of Jerry Foster and Columbus McNair to the new matters brought out today in regard to the return of the applicant.

Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to give the Cherokee Nation an opportunity to show that when L. D. Daniels and Luster Foreman testified that the applicant returned within the time prescribed by the Treaty of 1866 that they testified falsely; that no new testimony has been introduced; that the Cherokee Nation knows that the only points involved in this case is as to whether or not the applicant, William Tucker, returned to the Cherokee nation prior to February 11, 1867; that they knew of this matter and certainly knew at that time that we would rebut any testimony tending to disprove that fact.

Mr. Davenport: The representative of the Cherokee Nation have not undertaken to rebut any testimony today tending to prove the fact relating to the return of the applicant, but the applicant has offered in testimony by new witnesses upon that point which was not set down for hearing, and the representative of the Cherokee Nation so stated that the time it was offered that if it was offered they would ask time to look the matter up and offer testimony if it could be secured to contradict the testimony offered by the applicant today upon the question of the applicant's return.

Louis T. Brown: The applicant desires to state that this application was made on May 16, 1901, and that the Cherokee Nation knew at that time that the applicant would contend that he was a slave of a citizen of the Cherokee Nation during the war and that he returned within the time required by law, and they have had since that time to introduce testimony tending to disprove that fact and that the only contention they have made is that the evidence of L. D. Daniels and Luster Foreman could not be believed, to which we have answered today, and certainly objects to this case being allowed to stand open until at a time when they can search the country and the states and possibly secure some testimony that might tend to prove that the applicant did not return within time.

On Behalf of the Commissioner: The motion of the representative of the Cherokee Nation will be granted and the case continued until February 8, 1906, at nine o'clock A. M.

Louis T. Brown: To which the applicant excepts.

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Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 30th day of January, 1906.

Myron White
Notary Public.

WASHINGTON FIELD OFFICE

FIELD

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[Signature]

COMMISSIONER

Cherokee Freedman D 329
" " D 330
" " D 739

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 8, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application f
for the enrollment of WILLIAM TUCKER ET AL as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee nation, James S. Davenport.

The hearing of this case was continued from January 25,
1906, upon motion of Attorney for the Cherokee Nation, until
February 8, 1906, at which time the following proceedings
were had.

J. H. McGHIEE, being first duly sworn, testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A J. H. McGhee.
Q What is your post office? A Kinnison, I. T.
Q What is your age? A I am 47, going on 48.
Q How long have you lived in the Cherokee nation? A I was born in
the Cherokee nation, and I went out a little while time of the
war, and come back here in 1868.
Q When you came back to the Cherokee Nation in 1868, what part of
the Cherokee nation did you locate in? A Upon Big Cabin about
20 miles above Vinita.
Q Do you know a colored man named William Tucker who lives up
there? A Yes sir.
Q How long have you known him? A To the best of my recollection,
he came there in the fall of 1868.
Q Was he there when you returned? A No sir, I come in the spring.
Q How far did he locate from where you are living? A About two
miles from where I live
Q Where has he lived since that time? A Ever since I knew him to
come there.
Q Have you lived at or near the place since that time? A Yes sir.
Q You came as I understand you on Big Cabin in the spring of 1868?
A Yes sir.
Q And sometime after that William Tucker came into the locality
and located in about two miles of where you have lived? A Yes
sir.
Q And you and he have lived there that distance apart since that?
A Yes sir.
Q You didn't know William Tucker before the war? A No sir, not
until he come there.

BY LOUIS T. BROWN:

- Q Were you in the neighborhood of where you now live before William
Tucker? Who came to that neighborhood first, you or William
Tucker? A I come with my uncle, I come in the spring and to the
best of my knowledge he come in the fall or winter.

- Q Do you know where he came from? A No sir.
Q You know nothing then of his whereabouts until after 1868?
A No sir.

WITNESSES EXCUSED.

Mr. Davenport: The representative of the Cherokee Nation most humbly move the Commission to continue this case until March 8, 1906, on the ground of newly discovered evidence which they were not in possession of and could not learn of until the 7th of February, 1906. They believe they believe they can show by the newly discovered evidence that the principal applicant in this case did not return to the Cherokee Nation until the fall of 1868. They further state in their motion that this is not made for delay but in order to secure the facts, if possible, and that the information upon which they base their motion is information obtained from the witness who is present today from other parties in conversation after he had been subpoenaed as a witness.

By Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to impeach the reputation of L. D. Daniels and Luster Foreman, and for the further reason that this application was made on the 16th day of May, 1901, and that the Cherokee Nation has had since that time to secure testimony tending to disprove the right of the applicant to be enrolled as a Cherokee freedman; that the case was continued on the 25th day of January, 1906, until this day and the Cherokee Nation was given an opportunity, and has had since that time to get the testimony that they now say they can produce.

On Behalf of the Commissioner: On account of the character of the testimony offered in rebuttal by the applicants on January 25, 1906, and in order that the present hearing before this office may be a finality in this case, the motion of the Attorney for the Cherokee Nation will be granted, and the case continued until Thursday, March 8, 1906, at nine o'clock A. M.

By Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 9th day of February, 1906.

Myron White

Notary Public.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

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[Signature]
COMMISSIONER

RECEIVED
JUN 10 1906
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Cherokee Freedmen D 329, 330, and 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., APRIL 4, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicant, Louis T. Brown.

For Cherokee Nation, L. B. Bell and J. S. Davenport.

ON BEHALF OF THE COMMISSIONER:

The records of this office show that on February 8, 1906, this case was continued, on motion of the Attorneys for the Cherokee nation, until March 8, 1906; that on February 27, 1906, on motion of the Commissioner to the Five Civilized Tribes, the case was continued to March 29, 1906, of which ~~appointments~~ action the applicants, their attorney, and the attorneys for the Cherokee Nation were advised on February 27, 1906, and that on March 21, 1906, by agreement between the attorney for applicant and the attorneys for the Cherokee nation, the case was continued from March 29 to April 4, 1906, at Vinita, Indian Territory.

On this April 4, 1906, the case being called, and the Cherokee nation announcing that it has no testimony to introduce, the following proceedings were had in behalf of applicants.

JULY MARTIN, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

Q What is your name? A July Martin.

Q What is your age? A About 44.

Q Post office? A Chelsea.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Were you a slave? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir, I know him.

Q About how long have you known him? A I have known him ever since I was a boy, ever since I can recollect.

Q Did you know him during the war? A No sir.

Q When and where did you first become acquainted with William Tucker? A He come to our house down on Grand River when we lived on Grand River, come down there in the fall of '66, as near as I can recollect, and camped there about three weeks and left and went on down below us, said he was coming down about Tahlequah.

Q When did you return to the Cherokee Nation? A In the spring of '66.

Q And it was the fall of the same year that you saw the applicant? A Yes sir.

Q When did you next see him? A It must have been about two or three years when he come on back moving upon Cabin where he lives now.

Q Is that in the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q You are 44 years old now I believe you say? A Yes sir.
- Q How how old were you in 1866? A I don't know how old, when we come down here I was big enough to -----
- Q Well about how old were you? A I don't have no idea how old I was.
- Q You were about 4 years old, weren't you July? A I don't know whether I was or not.
- Q Had you ever seen William Tucker before the time you saw him down there on Grand River? A If I did, I don't know it.
- Q Whom were you living with? A My father.
- Q What is his name? A Aaron Martin.
- Q What time of the year was it you saw William Tucker down there? A I don't know just exactly, it was in the fall.
- Q Give me some reason for knowing it was in the fall? A Well we had done laid by corn, and it was along after that when he come to our house.
- Q Had you helped cultivate a crop that year? A Yes sir.
- Q And you were done laying by corn? A Yes sir.
- Q Did you have any roasting ears? A Yes sir/
- Q The corn was still in roasting ears? A Yes sir.
- Q Had you begun picking cotton? A Hadn't commenced raisin' raising cotton then.
- Q Had you had any frost? A I don't recollect whether there was any frost or not.
- Q How much of a corn crop had you made that year? A I don't know how much.
- Q You helped work it? A Yes sir.
- Q Can't you remember how much you cultivated that year? A No sir.
- Q Can't you remember how much your father cultivated? A No sir, we never had many acres, just put in a little piece.
- Q On whose place did you make the corn in 1866? A Arley Hicks' place.
- Q What side of Grand River was this side located? A It was on the west, end of Lynch's Prairie.
- Q That was there between Grand River then and Lynch's Prairie?
- A It was right in the edge of Lynch Prairie and right close to the river bottom.
- Q I say it was right in the end of the Prairie and the edge of the bottom? A I say it was right close to the river bottom.
- Q What post office is that near now? A I don't know what post-office is near there now, I haven't been down there for a good while.
- Q Hicks' farm is where you saw William Tucker? A Yes sir.
- Q Who all were with him at that time? A Joe was with him, and Steve Vann was with him. Joe Davis was with him, and I believe there were two girls with him.
- Q Well they had how many wagons? A One wagon I think was all.
- Q You know don't you? A Well there was two wagons with Uncle Joe Rogers'.
- Q Have you ever testified in this case before? A No sir.
- Q When did you first tell William Tucker that you remember seeing him down there in 1866 on Grand River? A I never told him, he come and asked me if I recollect seeing him.
- Q Well when was that? A That was yesterday.
- Q Now you haven't talked with any one about having seen him down there on Grand River in 1866 until yesterday? A No sir.
- Q And he came and talked with you, and you remember seeing him down there in 1866, 40 years ago? A Yes sir.
- Q And you remember all about it? A Yes sir, I remember all about it.

- Q Is your father living or dead? A He is dead.
- Q Any of the rest of your family living that is living down there now? A Just Aunt Sarah Ann, one of my aunts.
- Q You don't know where he went? A No sir.
- Q You didn't see him any more for two or three years? A Two or three years, yes sir, and he come on back by our place.
- Q Can you remember whether you were out of the Indian Territory during the war or not? A Yes sir.
- Q Did you go north or south? A Went north.
- Q When did you say you returned? A In the spring of '66.
- Q What time in the spring? A I don't know exactly what time it was.
- Q Well was the leaves put out or grass begin to grow when you came? A Yes sir.
- Q Had they commenced planting crops around anywhere? A Yes sir.
- Q Now whose place did you pass that you saw them planting crops as you came back? A I don't know whose place.
- Q Well you remember seeing William Tucker? A Yes sir, I remember seeing him but I don't remember everybody's place I passed.
- Q Give me some one? A Well I don't know.
- Q Can't you remember a single one who was planting crops that you passed as you came down? A No sir.
- Q How did it happen that you came down in the spring of 1866? A I don't know.
- Q You came down for the purpose of establishing your right in the Cherokee Nation under the Treaty? A I never did know nothing about that Treaty.
- Q Not in your life? A Not until here recently.
- Q You were not an applicant before the Wallace roll as a Cherokee freedman? A Yes sir.
- Q July what year was the Wallace roll made? A I don't know.
- Q What year was the Kern-Clifton roll made? A I don't know that.
- Q What year was the Dixon payment? A I don't know that.
- Q Were you living in the Territory then? A Yes sir.
- Q It has been a very much shorter time since the Wallace roll was made than 1866, hasn't it? A Yes sir.
- Q And it has been a much shorter time since the Kern-Clifton roll was made than 1866, hasn't it? A Yes sir.
- Q Why is it you can't remember those years the same as the year you saw William Tucker? A They always said it was '66.
- Q Do you mean to tell this Commission that in your application for enrollment you stated that you and your father came back in the spring of 1866? A Yes sir.
- Q You are positive of that fact? A Yes sir.
- Q Now I will ask you if it is a fact that your father had returned to the Cherokee Nation, planted, cultivated and had a crop of corn in roastingear before you saw William Tucker in the Cherokee Nation? A Yes sir.
- Q Your father had returned and you with him to the Cherokee Nation, had planted a crop and cultivated it and it was in roastingear in other words it was in the fall following the spring he had planted the crop when you ~~now~~ claim to have seen William Tucker? A Yes sir, we made a crop before I saw William Tucker.
- Q Which one of the Steve Vanns was with William Tucker when he come back? A This colored fellow around here in town they call Steve Vann.
- Q The one that lives around somewhere here in the neighborhood of Bluejacket or Vinita now? A Yes sir.

W I T N E S S E X C U S E D .

DANIEL SANDERS, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Daniel Sanders.
Q Your age? A 61 going on 62. I was born in 1844.
Q Your post office? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant, William Tucker? A Known him ever since I could talk.
Q Was he a slave? A He was.
Q When did you return to the Cherokee nation after the close of the war? A In 1866.
Q After your return did you see the applicant, William Tucker?
A Yes sir, I did.
Q When and where was the first time you saw him? A I saw him down there on Spring Creek.
Q When was that? A That was along in May, 1867.
Q What were you doing on Spring Creek, 1867? A I come from Fort Gibson up there to,--what was that Ross name---Henry Ross, and come over there and stopped in that neighborhood there.
Q You had known the applicant prior to that time? A Yes sir.
Q Recognized him when you saw him? A Well I don't know about that, he was there, had in a crop.
Q Well I say you recognized him? A Yes sir, I recognized him.
Q Has he resided in the Cherokee nation ever since you saw him on Spring Creek in 1866? A Ever since so far as I know.
Q You have seen him from time to time in the Cherokee Nation?
A Yes sir.

BY MR. DAVENPORT:

- Q You don't know anything about when he returned to the Cherokee Nation of your own knowledge? A Well I don't know just exactly the date.
Q The first time you ever saw him in the Cherokee Nation after the war was in May 1867? A May, 1867.

W I T N E S S E X C U S E D .

JULY MARTIN RECALLED:

BY MR. DAVENPORT:

- Q How many crops did you make on the Hicks place after you came back? A We made one.

W I T N E S S E X C U S E D .

JOE DAVIS, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Joe Davis.
Q Your age? A 51.
Q Your post office? A Vinita.
Q Were you present when July Martin and Daniel Sanders gave their testimony in this case? A Yes sir.

ON BEHALF OF THE COMMISSIONER TO MR. DAVENPORT:

Q Do you desire to object to the introduction of the testimony of this witness on the ground that the rule in force with reference to witnesses who were going to testify leaving the ~~room~~ ^{room} when the other witnesses were examined?

MR. DAVENPORT:

We object for the reason that the witness had an opportunity to hear the other testimony.

ON BEHALF OF THE COMMISSIONER;

The testimony of the witness will be taken at this time, and the regularity of the taking of the same will be passed on.

BY LOUIS T. BROWN of witness:

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir.

Q How long have you known him? A All my life.

Q Do you know when the applicant returned to the Cherokee Nation after the close of the Civil war? A Yes sir.

Q When? A In the fall of '66.

Q Has he had a continuance residence in the Cherokee Nation since that date? A He has sir.

BY MR. DAVENPORT:

Q You say you know when he returned Joe? A Yes sir.

Q Where did he go during the war? A I don't know, I think he went north, he went up in Kansas somewhere.

Q You say you knew him all your life? A All except about two or three years during the war.

Q Where were you and he during the war? A I was in the Cherokee Nation during the war.

Q And the war closed, where were you? A At Fort Gibson.

Q In 1866 where were you? A At Fort Gibson part of the time and part of the time on Spring Creek.

Q It is not a fact as stated by July Martin that you returned with him to the Cherokee Nation? A It is a fact that I went up there and he done returned, and probably had been here a month or two. He had been down to Gibson gathering up us children.

Q Are you related to him? A His brother is my brother. My mother died when I was small, and old man Tucker raised me, my rights based on his rights.

Q Now with whom were you living at Fort Gibson when William Tucker came and got you? A With Uncle Fred Davis and Julie Martin.

Q What Cherokee or colored people or white people lived near you?

A I couldn't say, couldn't tell you, there was lots of them. I knowed pretty near everybody down there.

Q Where were you and Tucker going when you came from Fort Gibson up to where Martin was living? A We were coming up to Uncle Fred Martin's, I think, hunting a daughter of his.

Q You knew where you were going? A Well I think so, it has been a long time.

Q You say you came up there in the fall of the year? A Yes sir, I think it was.

Q And they had made a crop, Aaron Martin's folks had when you got up there? A Yes sir, I think they had.

Q Well you can remember what time of the year it was? A Yes sir, it was sometime in the fall.

Q Couldn't you tell whether they had a crop growing or whether they were gathering crops? A No sir, I don't.

Q You remember you were up there with Tucker? A I do.

- 4--
- Q You don't know whether they were gathering corn or picking cotton?
 A I knew they were not gathering corn and they were not picking cotton.
 Q Was it hot weather or cold weather? A It was getting along in the fall.
 Q Was it cold enough to have an overcoat? A No sir, we didn't have no overcoats in this country them days.
 Q Tucker had teams and wagons? A Yes sir, had a span of little old ponies and two or three other ponies he fetched down from Kansas with him when he come.
 Q Do you know what point he came from Kansas? A I think he had been up around Manhattan.
 Q Did he tell you this? A No sir, he told me since.
 Q Did he tell you whether he ever lived any other place in Kansas?
 A I think he was up about Fort Scott.
 Q Did he tell you that? A I don't know whether he did or not.
 Q You don't mean to say he come and got you and raised you and didn't tell you where he was in Kansas? A He said he was at Manhattan.
 Q And Fort Scott? A Yes sir, I think he did.
 Q Did he say anything about being at Mapleton? A Yes sir, I believe he did.
 Q Did he say anything about being at Burlington? A Yes sir, I think he did.
 Q As a matter of fact he did tell you he lived in and around Burlington during the war? A No sir, I don't know whether he did or not.

W I T N E S S E X C U S E D .

Mr. Davenport:

The representatives of the Cherokee Nation move that the case be continued for further hearing at Muskogee, Indian Territory, April 12, 1906, in order that the nation may be able to put in rebuttal testimony against the testimony introduced today by the applicant of July Martin and others, it being testimony introduced that they could not anticipate, and that they are not now in a position to produce it today.

Louis T. Brown:

The applicant desires to state that this case was remanded for the purpose of giving the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, that the record shows several weeks ago they introduced several witnesses along that line, and that this case has been continued twice since then on motion of the Attorneys for the Cherokee Nation, and the applicant now objects to it being continued again. That the Cherokee Nation knew that the time the original application was made the applicant would contend that he was a slave of a citizen of the Cherokee Nation and that he returned to the Nation within the time prescribed by the Treaty; that they have had since that time to secure testimony tending to disprove that fact, and I desire to further state that it is my understanding when this case was sent up here that it would be closed today, and for these reasons I certainly object to the case being left open and insist that it be closed today.

Mr. Davenport:

If the applicants had confined themselves to the proposition of the impeachment testimony for which this case was remanded, and had not today brought in testimony upon the original question, the Cherokee nation would have been in a position to have closed today, and would have been ready to have closed, but instead of doing so today they introduced testimony upon the original question of the return of the applicant, upon which the Cherokee nation had made no preparation, thinking that question was closed.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for the applicant will be noted and the motion of the Attorney for the Cherokee nation for continuance will be granted.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 6th day of April, 1906.

B. P. Rasmus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., APRIL 12, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee Nation, J. S. Davenport.

It appears from the records of this office that the hearing in this case was continued from April 4, 1906, until April 12, 1906, on motion of the representatives of the Cherokee nation, at which time the following proceedings were had.

MR. DAVENPORT:

I want to introduce the testimony, in the William Tucker case, of Aaron Martin in his application, D 235, also of Andy Frye and Filmore Hicks, for the purpose of contradicting the testimony given by July Martin and others at the last hearing, as to when William Tucker was at Aaron Martin's house, it being testified at that time by July Martin that they had returned and made a crop and the corn was in roastingear. This testimony offered shows when Aaron Martin returned.

The representatives of the Cherokee Nation also desire to introduce the testimony of July Martin taken in his own application for enrollment, Freedman D 348, for the purpose of contradicting his testimony given in the case now being heard. I desire also to introduce the testimony of Allen Lynch for the purpose of contradicting himself.

LOUIS T. BROWN:

The applicants object to the introduction of the testimony of Aaron Martin for the reason that Aaron Martin has never been called as a witness in this case, and the applicant has not had the opportunity to cross examine him in his own behalf. The applicant objects to the testimony of Filmore Hicks, Andy Frye and Allen Lynch being made a part of the record in this case for the reason that the three last named persons are living and could appear before the Commissioner in person and give their testimony, at which time the applicant would have an opportunity to cross examine them in his behalf. That when the Commissioner sat at Vinita April 4, 1906, Allen Lynch was present at that time and testified in another case and the Cherokee Nation could have taken his testimony at that time relative to this matter.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for applicants will be noted, and the request of the Attorneys for the Cherokee Nation will be complied with and the testimony considered for what it is worth.

The Attorneys for applicants and Cherokee Nation announce that they have no further testimony to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 14th day of April, 1906.

D. P. Raemus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications for the enrollment of:

William Tucker.....	Cherokee Freedman D329
Katie Adams, et al.....	Cherokee Freedmen D330
Sarah Foster.....	Cherokee Freedman D739
Malinda Beeson.....	Cherokee Freedman D969

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by William Tucker for, among others, himself, the others included in said application have heretofore been disposed of, and their rights to enrollment will not be considered in this decision; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Sarah Foster for, among others, herself, the others included in said application have been heretofore disposed of and their rights to enrollment will not be considered in this decision; and by Malinda Beeson for herself. The records further show that on June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered its decision herein, granting all of said applicants the right to enrollment as Cherokee freedmen, and that said decision was duly forwarded the Department for review and decision. Thereafter on December 16, 1905 (I.T.D. 10922-05), the Department, in view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, remanded said case, insofar as it granted the applications for the enrollment of said persons as Cherokee freedmen, to this office for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce witnesses to impeach witnesses who had testified in behalf of the applicants. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, January 25, February 8, April 4 and April 12, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, William Tucker, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress

of said rebellion he left the Cherokee Nation, but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation, and has since continuously resided therein. The evidence further shows that all the other applicants herein are descendants, children and grandchildren of the said William Tucker, born since 1866, and continuously resided in the Cherokee Nation from the date of their births up to and including September 1, 1902.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1896 (30 Stat. 495), the decision of the Commission to the Five Civilized Tribes rendered on June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen should be, and the same is, hereby, affirmed.

SIGNED: *Tame Bixby.*
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 24 1907

FD 331

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Mattie Adams,

Welch, I.T.

Cherokee F-D-380.

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

Muskogee, Indian Territory, November 3, 1902.

Katie Adams,

Chetopa, Kansas.

Dear Madam:-

The birth affidavit heretofore received by the Commission in the matter of the application for the enrollment, as a Cherokee Freedman, of John Henry Adams, infant child of yourself and George Adams, shows that this child was born on September 29, 1902.

You are advised that, under the provisions of the Cherokee Agreement proclaimed August 12, 1902, the Commission is not authorized to receive the application for the enrollment of this child.

Sections 25 and 30 of said Agreement provide as follows:

"Sec.25. The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed thereon by the Commission to the Five Civilized Tribes.

.....
Sec.30. During the months of September and October, in the year nineteen hundred and two, the Commission to the Five Civilized Tribes may receive applications for the enrollment of such infant children as may have been born to recognized and enrolled citizens of the Cherokee Nation on or before the first day of September, nineteen hundred and two, but the application of no person whomsoever for enrollment shall be received after the thirty-first day of October, nineteen hundred and two."

Respectfully

Acting Chairman.

(COPY)

Tahlequah, Indian Territory, March 21, 1905.

Commission to the Five Civilized Tribes,
(Cherokee Enrollment Division),
Muskogee, Indian Territory.

Gentlemen:

I herewith return consolidated cases of

William Tucker, et al,	Cherokee	F. D-329,
Katie Adams, et al,	"	F. D-330,
Lucinda Whitmire,	"	F. D-352,
Sarah Foster,	"	F. D-739,
Malinda Beeson,	"	F. D-969.

The decision, as prepared, admits 12 of the applicants, denies 3 and one is dismissed because of death.

Upon examination I am of the opinion that all of them should be denied enrollment. As to the 12 who are granted, it will be observed that not one of them is upon either of the regular rolls of 1880 and 1896. The right of the 12, as indeed all of these applicants, is derived through the father, William Tucker. He is supported by two very questionable witnesses. One of them, L. D. Daniels, whose testimony I do not consider is entitled to much, if any, weight and who appeared to be simply a professional witness, clearly indicates that he identified Tucker solely upon ^(Tucker's) his own information. He say that he knew that Tucker was the man that he met in 1866 at Ft. Gibson because "he (Tucker) told me that he was the same man I met". As to the other witness, Lester

Commission--2.

Foreman, he is notoriously unreliable and the most casual perusal of the testimony must, in my opinion, reveal all the evidences of vagueness and unreliability. It will be observed that some of Tucker's children married people who were on the 1880 roll and who were undisputed as to their citizenship. In no instance, however, has any one of them been admitted with the other members of the family upon either that or the 1896 roll. These facts, to my mind, constitute clear and satisfactory evidence that none of these parties are entitled to enrollment.

I suggest that the cases be rewritten and that all of them be rejected upon the lines here stated. If the other Commissioners do not agree with me in this view, then I beg to vote in the negative and have the case referred to the Department for its decision.

I am not entirely clear, but I presume that a negative vote of this character should be considered in the nature of a protest or an appeal. I trust, however, that a careful examination of the testimony will lead to the same conclusion with the other Commissioners that I have formed. I see that none of the Commissioners have so far concurred in the decision as at present written.

Respectfully,

(Signed) C. R. Breckinridge.
Commissioner.

MH
Enc. H-25

(COPY)

I have signed original decision--
witnesses for applicant have not been
impeached--and no effort on part of nation
either to impeach or rebut their tes-
timony----I believe Daniels told the truth-
no Freedman in the territory had better
mans of knowing these people than he-
-It is true that he was a witness for many
of them-he is an intelligent man-and in the
work of enrollment of Freedmen often swore
adverse to applicant-he was the dispenser
of government rations to these people-and
had an opportunity of knowing them-in all
testimony given by him-he appeared to have
a very clear recollection as to past events-

T. B. N-----

Cherokee Freedmen

D-330.

Muskogee, Indian Territory, June 28, 1905.

Katie Adams,

Welch, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting, among others, the application for the enrollment of yourself, et al., as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-67
Register

(SIGNED).

Jane Dixby.

Chairman.

COPY.

Cherokee Freedmen

D-330.

Muskogee, Indian Territory, June 28, 1905.

Edgar Smith,

Attorney for Katie Adams, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting, among others, the application for the enrollment of Katie Adams, et al., as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-68
Register

(SIGNED) *Tamm Dixby.*
Chairman.

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, June 28, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitmire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

SIGNED: *Tamie Dixby.*

Incl. 8-72

Chairman.

COPY.

Cherokee Freedmen
B-329, et al.

Muskogee, Indian Territory, June 28, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al., as Cherokee freedmen, including the Commission's decision dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitmire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. B-73

Chairman.

Through the

Commissioner of Indian Affairs.

J. P. Jr.
Y.P.
FHE

DEPARTMENT OF THE INTERIOR

D. C. 56716-1905
I.T.D.-10922-1905

WASHINGTON

December 16, 1905

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 28, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for enrollment as Cherokee freedmen, of William Tucker, for himself and his three minor grandchildren, William, Irene, and Virdie Banks; of Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordelia Adams; of Zeke Whitmire for his wife Lucinda Whitmire; and of Jerry Foster for his wife, Sarah Foster, including its decision of the same date, which was adverse to William, Irene and Virdie Banks, and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants.

Reporting August 26, 1905, the Indian Office recommends that the decision of the Commission be approved. A copy of its letter is inclosed.

It appears from the record that all of the applicants except William Tucker, and Mary Banks, deceased, mother of William,

Irene and Virdie Banks, were born since the beginning of the Civil war, and claim their rights to enrollment as Cherokee freedmen through William Tucker, the principal applicant. It is alleged that William Tucker was the slave of George Whitmire, a Cherokee citizen; that during the war he removed to Kansas, but returned to the Cherokee Nation on or before February 11, 1867, and has resided continuously in the Cherokee Nation up to and including September 1, 1902.

The Department believes that the Commission's decision in so far as it is adverse to the applicants, William, Irene and Virdie Banks, and to Lucinda Whitmire, is correct, and as to these applicants it is hereby affirmed.

It is shown by the record that William Tucker testified in his own behalf. He is supported by the testimony of J. D. Daniels and Lester Foreman. Commissioner Breckinridge questions the reliability of the testimony submitted by these witnesses.

In view of the opinion expressed by Mr. Breckinridge on this testimony, the Department considers it advisable to remand the case in order that the nation may have an opportunity to impeach these witnesses. The record is therefore returned herewith for a rehearing and a readjudication, except as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire.

You are requested to advise the principal applicants, informing them of the reason for this rehearing, and also to notify the nation.

Respectfully,

(Signed) THOS RYAN

First Assistant Secretary

2 inclosures .

COPY.

Cherokee Freedmen
D 329 et al

Muskogee, Indian Territory, January 6, 1906

Louis T. Brown,

Attorney for William Tucker et al.

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedmen enrollment case of William Tucker et al., you are hereby advised that this office is in receipt of Departmental letter of December 16, 1905, in which the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, rejecting the application for the enrollment of William, Irene and Virdie Banks, and dismissing the application for the enrollment of Lucinda Whitnair as Cherokee freedmen, and granting, Commissioner Breckinridge dissenting, the applications of William Tucker, Katie Adams and her minor children and Sarah Foster, is affirmed as to the applicants William, Irene and Virdie Banks and Lucinda Whitnair, and the case remanded as to the other applicants, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

Louis T. Brown-2.

You are, therefore, hereby notified that the Cherokee Nation has been this day advised that it will be permitted to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, January 25, 1905, and submit such testimony as it desires as to the reliability of said L. D. Daniels and Lester Foreman. You are further advised that the principal applicants in these cases have also this day been notified that they will be permitted to appear on that day and introduce, in rebuttal, such testimony as they desire.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

SIGNED.

Commissioner

Incl. B-4

IMB

COPY.

Cherokee freedman
D 329 et al

Muskogee, Indian Territory, January 6, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the Cherokee Freedmen enrollment case of William Tucker, et al., you are advised that this office is in receipt of Departmental letter of December 16, relative to the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, adverse to William, Irene and Virdie Banks and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants, and in which said decision is affirmed as to William, Irene and Virdie Banks and Lucinda Whitmire, and the case remanded to this office, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

You are, therefore, hereby notified that you will

be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, January 25, 1906, and introduce such testimony as you desire as to the reputation for truth and veracity of said L. D. Daniels and Lester Foreman. The principal applicants in these cases will also be permitted to appear on that date and introduce, in rebuttal, such testimony as they desire in these cases.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

REIGNED.

Fane Dixby.

Commissioner

LMB

Incl. B-5.

COPY

**Cherokee Freedmen
D 330**

Muskogee, Indian Territory, January 6, 1906

Katie Adams,

Welch, Indian Territory.

Dear Madam:

In connection with the Cherokee freedmen enrollment case of yourself and minor children, you are advised that this office is in receipt of Departmental letter of December 16, in which the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting, Commissioner Breckinridge dissenting, your application for the enrollment of yourself and minor children as Cherokee freedmen, is remanded to this office in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony submitted in your behalf by L. D. Daniels and Lester Foreman, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

You are, therefore, hereby notified that the Cherokee Nation has this day been notified that it will be permitted to appear before the office of the Commissioner to

Katie Adams-2.

the Five Civilized Tribes at nine o'clock A. M. on Thursday, January 25, 1906, and introduce such testimony as it desires relative to the reliability of said L. D. Daniels and Lester Foreman. You will also be permitted to appear on that date and introduce in rebuttal such testimony as you may desire.

Respectfully,

~~REMOVED~~

Tams Bixby.
Commissioner

Register

LMB

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. 61-91.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. GL-90.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-21.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-20.
GHL

Acting Commissioner.

VV
D.C. 10003-1907.

JFJR

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

O.K.

I.T.D.
3186-1907.
LRS

February 16, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 13, 1907 (Land 11764), the Indian Office transmitted a communication from W. W. Hastings, attorney for the Cherokee Nation, dated January 31, 1907, enclosing a protest of the Cherokee Nation against the enrollment of William Tucker et al., as Cherokee freedmen.

You are advised that on February 9, 1907, the Department considered this application and affirmed your decision of January 23, 1907.

The protest has been examined, and there appears to be no reason therein which would warrant further consideration of the case. The protest is returned for the files of the Indian Office.

The papers in the case and a carbon copy hereof are returned for the files of the Indian Office.

Respectfully,

3 inc. to Ind.Of.

Signed, Thos Ryan

AFMc
2-18-07

First Assistant Secretary.

Cherokee
F D 330

Muskogee, Indian Territory, February 27, 1906.

Katie Adams,

Chetopa, Kansas.

Dear Madam:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of yourself, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 27, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 322 et al.

Muskogee, Indian Territory, February 27, 1906.

Pell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee Freedmen

COPY.

D-330.

Muskogee, Indian Territory, March 21, 1906.

Katie Adams,

Chetopa, Kansas.

Dear Madam:

Referring to this office letter of February 27, 1906, you are advised that, by agreement between your attorney, Louis T. Brown, and the attorneys for the Cherokee Nation, the hearing in your Cherokee freedmen enrollment case has been continued from March 29, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

SIGNED

Wm. C. Seace
Acting Commissioner.

LS

Cherokee Freedmen

COPY.

D-329, et al.

Muskogee, Indian Territory, March 21, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are advised that, by agreement between yourself and the attorneys for the Cherokee Nation, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

SIGNED:

Wm. C. Beale
Acting Commissioner.

LS

Cherokee Freedmen

D-329, et al.

COPY.

Muskogee, Indian Territory, March 21, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are advised that, by agreement between yourselves and Louis T. Brown, attorney for applicants, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, 1906, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

(SIGNED):

Wm O'Beall
Acting Commissioner.

LS

Cherokee Freedmen

D-329-330-739.

Muskogee, Indian Territory, April 11, 1906.

Louis T. Brown,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith copy of supplemental proceedings had at Vinita, Indian Territory, on April 4, 1906, in the Cherokee freedmen enrollment case of William Tucker, et al.

Respectfully,

Incl. 8-27

Acting Commissioner.

Cherokee F. D.
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Frey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-32.
GHL

Acting Commissioner.

Cherokee F D
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Frey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-31.
GHL

Acting Commissioner.

Cherokee F.
D-330

Muskogee, Indian Territory, January 23, 1907.

Katie Adams,

Chetopa, Kansas.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting, among others, your application for the enrollment of yourself and children as Cherokee freedmen. Your attorney, Louis T. Brown, Muskogee, Indian Territory, has heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-48
JMH

Commissioner.

(C O P Y)

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

Louis T. Brown,
Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-51
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-52
JMH

Commissioner.

Muskogee, Indian Territory, January 23, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al. (D 329 et al), as Cherokee Freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen.

On December 16, 1905 (I.T.D. 10922-1905), the Department remanded this case to this office for rehearing and readjudication.

There is also enclosed a schedule containing the names of the Freedmen embraced in this decision, and

Secretary-2

in the event of the approval of the Commissioner's decision enrolling the applicants in this case, it is respectfully recommended that the schedule, which is Numbers 4207 to 4212, inclusive, be approved by the Department. This action is recommended in view of the provision of the Act of April 26, 1906 (34 Stat., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The names of the persons embraced in this case here follow in the same numerical order as on the schedule:

No.	Name.
4207	Tucker, William
4208	Adams, Katie
4209	Adams, Albert
4210	Adams, George Edward
4211	Adams, Elias
4212	Adams, Walter

Secretary-S-

No.	Name.
4213	Adams, Gertrude
4214	Adams, Elmer
4215	Adams, Ella
4216	Adams, Cordelia
4217	Foster, Sarah
4218	Beeson, Malinda

Respectfully,

Through the
Commissioner of Indian Affairs.

Commissioner

Encl. B-64

COPY

LAND
9084-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith report of Commissioner Bixby, dated January 23, 1907, forwarding the record of proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission rendered June 28, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Reeson, as Cherokee freedmen.

The Department, on December 16, 1905 (I.T.D.10922-1905), remanded this case to the office of the Commissioner for rehearing and readjudication.

There is also enclosed a schedule containing the names of the freedmen embraced in the enclosed decision, and in the event of the approval of the decision enrolling the applicants herein, Commissioner Bixby recommends that the schedule, numbers 4207 to 4218, inclusive, be approved by the Department. This action is

recommended in view of the provisions of the Act of April 26, 1906 (34 Stat. L., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The record shows that applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by William Tucker; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; and by Sarah Foster and Malinda Beeson. On June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered a decision granting all the applicants the right to enrollment as Cherokee freedmen. The decision of the Commission was forwarded to the Department with Office letter of August 26, 1905.

In view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, the Department, on December 16, 1905 (I. T. D. 10922-1905), remanded the case to the office of the Commissioner to the Five Civilized Tribes for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce testimony to impeach witnesses who had testified in behalf of the applicants.

Pursuant to Departmental directions, further proceedings were had relative to the application of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, January 25 and

February 3, at Vinita, Indian Territory, April 4, and at Muskogee, April 12, 1906.

The evidence shows that the applicant herein, William Tucker, was a slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of the war he left the Cherokee Nation, but returned thereto prior to February 11, 1867, and has since continuously resided therein.

The evidence further shows that all of the other applicants herein are descendants, children and grandchildren, of William Tucker, were born since 1866, and continuously resided in the Cherokee Nation from the date of their birth up to and including September 1, 1902.

In view of the facts as herein set out, and in accordance with the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat. ., 495), the Office concurs in the decision of Commissioner Bixby that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson, as Cherokee freedmen, be affirmed.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EBM-EH

J.V.Jr.

D.C.9090-1907. DEPARTMENT OF THE INTERIOR,
WASHINGTON. LLB.
I.T.D.2388-1907.

L.R.S.

February 9, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 23, 1907, you transmitted the record in the matter of the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and + Cordilia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen, including your decision of the same date, affirming the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, granting the applications for the enrollment of said applicants.

In connection with this case you transmitted a schedule containing the names of the freedmen embraced in this decision, and in the event of the approval of your decision you recommend that said schedule be approved by the Department.

Reporting February 4, 1907 (Land 9084), the Indian Office concurs in your decision that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting said applications, be affirmed. A copy of its letter is inclosed.

The Department considers your decision correct and it is hereby affirmed.

-2-

The schedule transmitting the names of the freedmen embraced in this decision has been approved this day, and two copies are inclosed for appropriate disposition.

The original of said schedule, together with the other papers in the case, has been sent to the Indian Office for its files.

Respectfully,

Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

3 inc. and 3 to Ind. Of.

Cherokee F
1548.

Muskogee, Indian Territory, April 15, 1907.

Katie Adams,

Welch, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of yourself and children, as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907, and your names placed upon a schedule of Cherokee freedmen and approved by the Department on said date.

Respectfully,

Commissioner.

LMC

Cherokee F
1842 et al.

Muskogee, Indian Territory, April 15, 1907.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-2
LMC

Cherokee F
1549, et al.

Muskogee, Indian Territory, April 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-3
LMC

Cher Fr 1549

Trans. from Cher Fr D 329

Cher Fr 1549

A. F. D. 329

RECEIVED
JUL 20 1901

ACTING CHAIRMAN

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, I. T., May 16, 1901.

In the matter of the application of William Tucker for the enrollment of himself and three grandchildren as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Tucker.
Q How old are you? A Well, I don't exactly know; somewhere between sixty and seventy; about 65 I will say.
Q What is your postoffice? A Welch.
Q What district do you live in? A Coowessawawee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled by any other nation or tribe? A No sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know; there has been so many different rolls taken.
Q Is your name on the roll of 1880? A I don't know.
Q You don't know whether it is on any roll? A Yes sir, I know it is on the Clifton and Kerna Roll and the Wallace Roll.
Q Who do you want to enroll besides yourself? A Three grandchildren.
Q Give me their names? A William Banks.
Q How old is William? A He is twenty.
Q Next? A Irene.
Q How old is Irene? A 15.
Q The name of the next one? A Virdie.
Q How old is Virdie? A 10 years old.
Q What is the father's name of these children? A William H. Banks.
Q Is he living? A Yes sir.
Q Why don't he enroll his own children? A He is living in the states.
Q What is their mother's name? A Mary, she is dead.
Q Where are these children now? A One is at my house, and the other two are in Kansas going to school. The youngest ones are in Kansas.
Q Living there with their father? A Yes sir, same place he is living.
Q Where were they born? A They were born in Kansas.
Q All the children born in Kansas? A Yes sir.
Q Was Mary Banks your daughter? A Yes sir; she went up there and married.
Q When did she marry in Kansas? A I don't know just what year it was in.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A George Whitmire.
Q Was he a Cherokee? A Cherokee Indian.
Q Is he alive? A No sir, he is dead.
Q Were you taken out of the Cherokee Nation during the war? A I wasn't taken out; I went out.
Q Where did you go? A I went to Kansas.
Q When did you return from Kansas to the Cherokee Nation? A I come back in the fall of '66.
Q Where to? A I went to Gibson when I first come.
Q Been living here ever since? A Yes sir, been in this nation ever since.
Q How old was your daughter, Mary, be if she were alive? A I guess 48 or 7 years old. She was born before the war. She never did go out of here; I left her here with the old lady, and when I come back I found her here.
Q When did she go to Kansas? A She went out to Kansas and married.
Q You know what year she married? A No sir, I don't.
Q Do you know how old she was when she married? A No sir.
Q Is William Banks her oldest child? A Yes sir.
Q She must have been out then over twenty years? A No. She wasn't out that long; she was at my place.
Q She never did come back from Kansas? A Yes sir.

2- W. T.

- Q After they were married? A Yes sir.
Q After she married, did she move back? A Yes sir.
Q Did she move back or just on a visit? A She didn't move back; she was visiting backward and forward.
Q But she lived in Kansas? A Yes sir, she lived in Kansas.
Q So she must have been about twenty years old or less than twenty years old when she married? A Yes sir, I guess so, somewhere along there.
Q And she died in Kansas, did she? A Yes sir.
Q And her husband still lives in Kansas? A Yes sir.
Q And these three children were born in Kansas? A Yes sir.
Q And they always lived in Kansas? A This boy has been living with me, the oldest one, and the other ones have been in Kansas.
Q How long has he been living with you? A He has been there quite a while.
Q Since his mother died? A And before too.
Q He lived with you before? A Yes sir.
Q But the other children never lived in the Cherokee Nation? A No sir, they never have lived in the Cherokee Nation.

The 1880 authenticated roll and the 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicant and his deceased daughter are not found thereon.

The Kerne Clifton Roll examined and the name of the applicant is found on page 168, No. 4151, William Tucker, Cooweescoowee District.

- Q Did you draw strip money for these children? A Yes sir.

The Kerne Clifton Roll examined and the names of the applicants' grandchildren are found thereon as follows:

Page 169, No. 4168, Willie Banks, Cooweescoowee District.

Page 169, No. 4169, Irene Banks, Cooweescoowee District.

Page 169, No. 4187, Lettie Banks, Cooweescoowee District.

- Q When was it you say you came back to the Cherokee Nation from Kansas? A I come back in the fall of '86.
L. B. Bell: Where do you live now? A I live where I have been living for thirty years on Cabin Creek where Rogers used to live.
Q Don't you live in Chetopa? A Never been there to live in my life. I live on Cabin Creek.
Q You say you have been living there for thirty years? A Yes sir, I went there in '69; that is over 31 years.
Q You have been living at the same place all the time? A Yes sir, Mr. Schrimsher taken the census when I was there.
Q Why didn't they put you on the roll of 1880? A I don't know why it is. Some way Mr. Bell, you all managed it.
Q You never moved out of the country since you come in? A Never have been out of the country.
Q When you returned in '86, where did you go to? A To Fort Gibson.
Q How long did you stay there? A Along until about winter. Everybody was so hungry, and they were issuing rations there and we had to go there to get something to eat.
Q Who did you stay with? A I just camped out.
Q Did you have a family then? A Yes sir.
Q Did you have a family when you went off? A No sir.
Q You married after that? A I married in Kansas.
Q Did you marry a Cherokee? A Yes sir, a Cherokee, one of Dave Rowe's; she used to live with his sister that Ben Mush married.
Q These children you report here are they that woman's children? A No sir, another's woman's children. Mary is by a woman I had when I lived here.
Q Who are these children's mother now? A My daughter.
Q I mean your other children? A Them was Lydia's children.
Commissioner Needles: Do you own any property in the Cherokee Nation? A Yes sir, I got a good farm.
Q Been living on it for thirty years? A Yes sir.
Q How many acres have you got? A About three hundred acres.
Q Have you any witnesses? A Yes sir.

L. D. Daniels, being sworn and examined by Commissioner Needles.

testified as follows:

- Q ~~What is~~ Your name is L. D. Daniels? A Yes sir.
 Q How old are you? A 56.
 Q What is your postoffice? A Claremore.
 Q Do you know William Tucker? A Yes sir.
 Q How long have you known him? A I have been knowing him about 36 years, I guess, near about.
 Q Well, was he a slave before the war? A No, I don't know that.
 Q Where was he in 1866? A I met him at Gibson in November, I believe it was, and he come there to get something to eat and I let him have it and I got acquainted with him and others that was with him.
 Q In the year of 1866? A Yes sir.
 Q Have you known him continuously since that time? A About five years or six or seven years I found him up here in Cooweescoowee. I have been knowing him ever since that.
 Q You don't know whether he went out of the country during the war or not? A Yes, he said so.
 Q You don't know who his owner was? A No sir; they called him Falk. I wasn't acquainted with him until I met him down there; he said that was a nickname or something.
 L. B. Bell: The first time you saw him was in 1866? A Yes sir.
 Q He was a stranger? A Yes sir, he come there with Jesse Vann.
 Q And you recollect him right straight on? A Yes sir, they told me who he was down there.
 Q He was introduced to you? A He was introduced; he come to get rations and I issued it.
 Q Did you keep a memorandum? A Yes sir, we had to do it to keep the Creek darkies from getting rations, and those who were citizens. We were issuing to the Cherokee Freedmen.
 Q Probably you can give us the day and the month? A If I know this was coming up, I would have kept the book; I could have made some money on it.
 Q You recollect this is the man you issued the rations to? A Yes, I recollect it, because when I met him in '76, when I moved up here ~~at~~ I met him frequently; his wife's folks lived right near me at Cooseneek; he told me that he was the same man I met.
 Q You would not have remembered it? A Maybe not.
 Q Do you remember all that you issued rations to? A I come might near knowing all the old folks; I don't remember all the children.
 Q Did you issue rations to a great many? A Yes sir, from 1865 to 1867.

Lester Foreman, being sworn and examined by Commissioner T.B. Needles, testified as follows:

- Q What is your name? A Lester Foreman.
 Q What is your age? A 58.
 Q What is your postoffice? A Vinita.
 Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
 Q Do you know William Tucker, the applicant? A Yes sir, I know him well.
 Q Was he a slave before the war? A I don't know.
 Q When did you first see William Tucker? A The first time I seen him was along in '66 or sometime along there when the come down after the rations after he had come back from somewhere, I don't know where he come from, I got acquainted with him then; we were both young men.
 Q Where was that at? A Fort Gibson.
 Q You are satisfied you saw him in Fort Gibson? A Yes sir.
 Q Has he been living in the Cherokee Nation ever since to your knowledge? A Yes sir, to the best of my knowledge. I haven't missed him out very long at a time.
 Q Do you know whether he had a daughter named Mary or not? A No sir, I don't know anything about his daughter.

W. T.

L. B. Bell: What were you doing at Gibson about that time? A A little of everything directly after the war; I was having a good time; I was a young man, I didn't have any steady occupation at all.

Q Were you living there continuously or just in and out? A I was raised there.

Q I am talking about 1866? A Yes sir, I was there all the time.

Q That was your home? A Yes sir.

Q What ever business you had was in Gibson? A Yes sir, everything I done was in Gibson.

Q How long did this man stay about Gibson in '66? A I don't remember; I seen him just the same as I seen other people there, in and out.

Q Did he stay a month, do you reckon? A I don't know whether he stayed a month or not. He didn't stay with me; I often seen him there.

Q I understood you to say you and he were having good times? A He was a young man and we were all having good times there.

Commissioner of Applicant: How long has Mary been dead? A About seven years, I believe.

Q Did she draw money on the Wallace Roll? A I don't know whether she got money that time or not.

Q Did she draw it on the Kerns Clifton Roll? A She was dead then.

The Wallace Roll examined for the name of the applicant's daughter and her name is not found thereon.

Q Is there anybody here that knew Mary Banks? A I don't know whether anybody is here or not; yes, there is.

Q You have got to prove now that Mary Banks was called your child? I don't know only by what the woman said. She was always claimed to be my child.

Q Is your wife living? A No sir.

Q Mary was never married but once? A No sir. She might be down as Pack. Mary's mother belonged to Betsy Pack.

Joe Davis, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Joe Davis.

Q What is your age? A 46 years old.

Q What is your postoffice? A Vinita.

Q Are you a recognized Freedman of the Cherokee Nation? A I don't know whether I am or not.

Q You are disputed, are you? A Yes sir.

Q Do you know William Tucker, the applicant, here? A Yes sir, he raised me.

Q Did he have a daughter named Mary? A Yes sir.

Q Was she his oldest daughter? A Yes sir.

Q Who did she marry? A She married a fellow by the name of Banks from Kansas.

Q What was her mother's name? A I don't recollect - Aunt Nancy Pack.

Q Was William Tucker married to Nancy Pack? A I couldn't tell you; I was only a little boy; they lived together I guess before the war like old colored folks did.

Q She was recognized as the child of William Tucker? A Yes sir.

Q You and she were raised together? A Yes sir.

Commissioner of Applicant: Who was Mary Banks mother? A Nancy Pack.

Q Were you married to her at that time? A No sir. There was no use in marrying them times; they would be taken away from you.

Q You weren't married in slave time? A No sir.

Q Is Nancy Pack living? A No sir, she is dead.

Q Who did she belong to? A Betsy Pack.

Q Was Betsy Pack a Cherokee Indian? A Yes sir.

Q Is Betsy Pack dead? A Yes sir, long ago.

Q She was the child of Nancy Pack? A Yes sir.

Q You took Mary to Kansas with you when you went? A No sir, she was here during the war. I went to Kansas.

Q She never did leave until she married? A No sir, she never did leave until she married.

William Tucker applies for the enrollment of himself and three grandchildren, William Banks, Irene Banks and Virgie Banks. He avers that said children are the children of his daughter, Mary Banks, by her husband, William H. Banks; that they were born and lived in the State of Kansas. Said Mary Banks was married in the State of Kansas. He avers that Mary Banks was the child of Nancy Pack, a slave, and that Nancy Pack belonged to Betsy Pack, a Cherokee citizen. He avers that said Mary Banks never left the Cherokee Nation until she married her husband, William, which facts are all stated in the testimony. The name of William Tucker cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns Clifton Roll, and his three grandchildren, William Banks, Irene and Virgie Banks, are identified on the Kerns Clifton Roll. He avers that he was the slave of one George Whitmire. He makes satisfactory proof as to residence. By reason of the fact that his name is not found upon the authenticated roll of 1880, and the further fact that his citizenship is contested, said William Tucker will be listed for enrollment as a Cherokee Freedman upon what is known as a doubtful card. By reason of the fact that Mary Banks, the mother of the children applied for, does not appear upon the authenticated roll of 1880, nor upon any rolls in the possession of the Commission at this time, and the further fact as to their residence in the State of Kansas, and further as to their citizenship be protested against by the authorities of the Cherokee Nation, the said children will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. Said William Tucker will be duly notified of the action of the Commission when the same is consummated, by mail.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

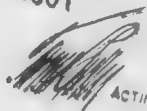
Subscribed and sworn to before me this 20th day of May, 1901.

W. H. Rothberger
W. H. Rothberger
 Commissioner.

13.

J. D. 29

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 16 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date

May 16, 1901

Post Office

Welch, S.T.

District

Coo

1. Name

William Tucker

Age

65

Owner's name

Mrs. Whitman

Citizenship

Cherokee

Year

Kle. Page 169

No. 4151

District

Coo

Parents:

Father

Mother

~~Do not type~~

Name of wife

Owners name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

2	William Banks	Year	Kle. Page 169	No. 4168	Dist. Coo	20
3	Gene "	Year	" Page 169	No. 4169	Dist. "	15
4	Virdie "	Year	" Page 169	No. 4167	Dist. "	10
6.		Year	Page	No.	Dist.	
7.		Year	Page	No.	Dist.	
8.		Year	Page	No.	Dist.	
9.		Year	Page	No.	Dist.	
10.		Year	Page	No.	Dist.	
11.		Year	Page	No.	Dist.	
12.		Year	Page	No.	Dist.	

~~Do not type~~

Application made by

Wm.

Stenographer

C. Rothenberger

2 On Kle. roll as Willie Banks
 4 " " " " " Lettie "

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

SS

Tucker

In the matter of the application of *Wm.*

for enrollment as a Cherokee Freedman.

No. F. D. *329*

Abner Pack, of lawful age, being duly sworn on oath states that on the *20* day of *September*, A. D., 1901, he registered to *Wm. Tucker* whose postoffice is *Welch*

Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto attaches the receipt of the Postmaster at *Fort Gibson* Indian Territory; and that on the *23* day of *September*, 1901, he received the return card which is hereto attached, signed by the said *Wm. Tucker*, showing that he had received said notice.

Subscribed and sworn to before me on this the *23* day of *Sept*, A. D. 1901.

Abner Pack
J. C. Starr
MY COMMISSION EXPIRES _____ Notary Public.

6
F.D. 329.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 23 1901


ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Wm. Lucker
for enrollment as Cherokee Freedmen:

Case No. F. D. 349

To Wm Lucker Welch Jr

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Verona Indian Territory, on 15 Aug. 1897 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this _____

L B Bell

W. W. Hastings
E. A. Davenport
Attorneys for the Cherokee Nation.

D.

70329

COMMISSION TO THE UNITED STATES

WILLIAM D.

OCT 15 1901

ACTING CHAIRMAN

COMMISSIONERS.

HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita S. T. 10/15/01

Received of the Commission to the Five Civilized Tribes
one copy of the testimony in the matter of the application of
William Tucker et al for enrollment as
Freedmen of the Cherokee Nation.

No. A.O. 329

Louis T. Brown
Agent for applicants

F. D. 0329

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190....

Given under my hand this
day of A. D. 190....

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
..... day of 190....

.....
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

.....
on the day of A. D. 190....

Subscribed and sworn to before me
this

.....
Notary Public.

I, the undersigned agent for the
within named applicant, hereby accept
service of the within notice on this the

30 day of Feb, 1902.

Louis J. Brown

Agent for applicant.

SENT TO THE CIVILIZED TRIBES
FILED
FEB 2 1902

[Signature]
ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of William Tucker et al
for enrollment as Cherokee Freedmen:

Case No. F. D. 329

To William Tucker or Miller et al with attorneys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muscogee D. C. Indian Territory, on February 3rd 1902 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 28th day of January 1902

L. B. Bell
Jess. Davenport
W. N. Hastings

Attorneys for the Cherokee Nation.

REJECTED: as to husband, George Adams.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 16, 1901.

In the matter of the application of Katie Adams for the enrollment of herself and eight children as Cherokee freedmen by right, and of her husband as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Needles she testified as follows:

Appearances:

Mellette & Smith, attorneys for applicant;
L. R. Bell, Cherokee Representative:

- Q What is your name? A Katie Adams.
Q What is your age, Katie? A I am 36.
Q What is your post-office address? A Welch, I.T.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know whether it is, mister, honestly.
Q Is it on any of the rolls? A Yes sir.
Q On the Kops-Clifton pay roll? A Yes sir.
Q On the Wallace roll? A Yes sir.
Q Who do you want to enroll besides yourself? A Me and my children and husband.
Q How many children have you? A I have eight living.
Q Give me the names of those under 21 years of age. A All of them is under age, there's the ages of them. (Hands Commissioner a paper).
Q Albert Adams, how old is Albert? A He is 15.
Q George Edward Adams, 14? A Yes sir.
Q Elias one of them? A Yes sir.
Q 13? A Yes sir.
Q Walter, 11? A Yes sir.
Q Cora? A Yes sir.
Q Cora is 10 I believe? A Yes sir.
Q Elmer eight years of age, Ella? A Yes sir.
Q Five years of age; Cordelia? A 2 years old.
Q Melvin? A He is dead.
Q Eight in all? A Yes sir.
Q Are these children all alive and living with you at this time? A Yes, sir.
Q Are you married? A Yes sir.
Q What is your husband's name? A George Adams.
Q Is he a citizen? A No sir, he is a United States citizen; here is his license. (Produces papers)
Q You apply for his enrollment? A Yes sir.

Com'r: Applicant presents certificate of marriage and duly authenticated marriage license, issued by the authorities of the Cherokee Nation, under seal, duly recorded as provided by the laws of the Cherokee Nation, certifying that she was married to one George Adams.

- Q There is no certificate of marriage here? A No sir. I lost the marriage certificate, but I can prove that we were married.

Com'r: Presents duly authenticated marriage license authorizing her marriage with her husband George Adams, said marriage license being issued by the authorities of the

Katie Adams, et al.-- 2.

Cherokee Nation and duly recorded, but presents no certificate of marriage.

Applicant: My husband is 48 years old.

Examined by Smith, of Mellette & Smith, attorneys for app't:

- Q Who was your father? A William Tucker.
Q The man who was just on the stand here, applying for himself?
A Yes sir.
Q Who was your mother? A Lettie, some called her Charlotte, but her name was Lettie.
Q Where do you live? A On Big Cabin.
Q How long have you lived there? A Ever since I can remember anything.
Q Big Cabin in the Cherokee Nation? A Yes sir.
Q How old did you say you were? A I am 36.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q Are these children that you apply for all living with you?
A Yes sir.
Q Where were they born? A In the Cherokee Nation.
Q Where were you and your husband married? A Right in father's house.
Q Where is father's house? A In the Territory.
Q Cherokee Nation? A Yes sir, where I was raised at.
Q Is there anyone here who saw you married? A Yes sir.
Q Who? A Mr. Steven Vann over there and my father.
Q Are you on the Kerns-Clifton roll? A I guess so.
Q Did you draw money at the Kerns payment or the payment that followed the Kerns roll? A Yes sir, and the Wallace too.
Q The payment that followed the Kerns roll, for whom did you draw, for anyone besides yourself? A Yes sir, for me and my oldest children. Drawed for all of them but Ella.
Q You know how you were put down on the Kerns roll, as Katie Adams or somebody else? A I don't know how they put it down; you see father give in my name. I think it was Katie Adams though.
Q What name did you go by before you were married? A Katie Tucker; I never was married but once, this is my first husband.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 169 #4160 Kate Adams, Cooweescoowee District;
page 169 #4161 Albert Adams, Cooweescoowee District;
page 169 #4162 George Adams, Cooweescoowee District;
page 169 #4163 Elias Adams, Cooweescoowee District;
page 169 #4164 Walter Adams, Cooweescoowee District;
page 169 #4166 Cora Adams, Cooweescoowee District;
page 169 #4165 Elman Adams, Cooweescoowee District.

- Q Were you on the Wallace roll yourself? A Yes sir.
Q How were you put down on the Wallace roll, as Katie Adams or Katie Tucker? A Katie Adams.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:
page 98 #2107 Katie Adams, Cooweescoowee District.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicants not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

Q Who do you say your mother was? A Her name was Lettie.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A She belonged to Dave Roe, I think; she always told us that was her young master.
Q Was he a Cherokee? A Yes sir.
Q Where did he live? A I don't know sir.
Q Who have you here who knows about who your mother belonged to?
A Oh her sister is here; I guess George Vann knows about her owners, they all lived close together I suppose.

WILLIAM TUCKER, being sworn - having been before sworn, by Commissioner Needles, and being examined by him, testified:

Q You were married to Lettie? A Yes sir.
Q Have you got a certificate of marriage? A No sir. Married in Kansas, up close to Osawatimie.
Q You were married according to law? A Yes sir, a preacher married us; we didn't get any license.

Examined by Attorney Smith:

Q When was that that you married? A Oh I guess it must have been about '63. Somewhere in the first of '63.
Q Was t at the mother of Katie Adams here? A Yes sir.
Q Where was Katie born? A She was born there in Kansas, just before we came down here.
Q About how old was she when you came down here? A I guess she must have been about 2 years old.
Q Where has she been living ever since you brought her ~~xxx~~ here?
A Up here on Cabin Creek close to where I live.
Q How long did you live with the mother of Katie? A Something near about 25 years anyhow.
Q Who was this girl's mother before you married her, what was her name? A They called her Lettie, she belonged to Dave Roe, but she was living with Ben Mush, some called him Ben Wisdom. But her main owner was named Roe.
Q Was he a citizen, an Indian? A Yes sir.
Q In the Cherokee Nation, citizen of the Cherokee Nation? A Yes sir.
Q Where was Lettie when the war commenced? A She was here too, I reckon, I don't know where she was; I come across her in Kansas.
Q When did she come back to the Cherokee Nation? A She come back with me in '66.
Q You say you were married to this woman Lettie, Katie's mother, in Kansas, and lived with her 25 years? A Yes sir.

Examined by Cherokee Representative, L. B. Bell:

Q Is Lettie dead now? A Yes sir.
Q How long has she been dead? A About eight years; she died just before the Wallace payment.
Q Is this your oldest child? A This is the oldest one by me; you know Gilbert Vann is her oldest one and Steve is the next.
Q This is the oldest child of yours by that last marriage? A Yes sir.
Q When you married this last woman was your first wife dead, Nancy? A Oh, yes, Nancy died before the war.

GEORGE VANN, being sworn by Commissioner Needles, testified as follows:

Examined by Attorney Smith:

- Q State your name? A George Vann.
Q Where do you live? A I live on Verdigris river, Cooweescoosee District.
Q How long have you lived there? A Ever since '74.
Q Do you know this applicant, who sits here, Katie Adams? A Yes sir.
Q Do you know her father? A Yes sir, her father was named William Tucker.
Q Did you know her mother? A Yes sir.
Q Is her mother living? A She is dead.
Q Do you know whether Katie's father, William Tucker, and her mother were married, or whether they lived together as man and wife? A I wasn't there when they married.
Q How long did you know them living together in that way? A I first knowed it in Kansas in about '63 or '64.
Q Do you know when Katie's mother died? A I know, it has been 7 or eight years.
Q When did you first know Katie's mother and William Tucker? A I have knowed Katie's mother all my life.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong? A I believe she belonged, that is she always went by Roe, she lived with a woman called Pollie Mush, Dave Roe's sister.
Q Where? A Down on Spring Creek, in Saline.
Q Do you know whether she went out of the Nation or not, during the war? A Yes sir, she went to Kansas.
Q You know when she came back? A She came back with Bill Tucker in '66.

Examined by Cherokee Representative, L. B. Bell:

- Q You say she came back with Bill Tucker? A Yes sir.
Q How do you know? A I saw them.
Q Where? A Right at Ft. Gibson. We started before they did, and first I saw them after I got back I saw them at Ft. Gibson.
Q They wasn't in that horse Creek fight? A No sir, they wasn't along.
Q You met them at Gibson after you got off of that battle? A Yes sir, the first I saw them after we got back was at Ft. Gibson.

Applicant, KATIE ADAMS, re-called, and further examined;
By Commissioner Needles:

- Q When were you married to George Adams? A When we first married Mr. Riley married us in father's house, and then after that they commenced talking about people marrying according to law, then we got a license and married over again.
Q That was in 1896? A Yes sir, that's the way it was.

Com' r. Needles: Katie Adams applies for the enrollment of herself and eight children; her name is not found upon the authenticated roll of 1880, but is duly identified upon the Kerns-Clifton roll, and the Wallace roll, and the names of her six children, oldest children are identified upon the Kerns-Clifton roll; the names of her two youngest children, Ella and Cordelia are not found upon said roll; it will be necessary for her to make satisfactory proof of their birth; she avers that she is the daughter of William Tucker, and that her mother's name was Lettie, who was a Cherokee slave, the facts being

Katie Adams, et al. -- 5.

more fully stated in the testimony; reference is made to the testimony taken in the application of William Tucker for the enrollment of himself and three grand-children, he having been enrolled on card number D-329, testimony in said case will be made a part of the record in the case of the applicant, and copies of the same will be filed with her testimony; she applies for the enrollment of George Adams, her husband, as an intermarried citizen; she presents satisfactory proof that she was married to George Adams according to the laws of the Cherokee Nation in the year 1896, too late, by the provisions of the laws of the Cherokee Nation to acquire any rights, consequently, her application for the enrollment of her husband, George Adams, will be rejected; said applicant and her children enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, by reason of the fact that her name is not upon the authenticated roll of 1880 and her citizenship is contested by the representatives of the Cherokee Nation; when her case is duly considered by the Commission and their conclusion is arrived at, she will be notified of the same, by mail.-----

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this May 17, 1901.

(Signed) C. R. Breckinridge,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony now on file in this office.

Sarah Watore

Subscribed and sworn to before me this Dec 1 1906.

B. A. Rasmus
Notary Public

REJECTED: as to husband, George Adams.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 16, 1901.

In the matter of the application of Katie Adams for the enrollment of herself and eight children as Cherokee freedmen by right, and of her husband as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Needles; she testified as follows:

Appearances:

Mellette & Smith, attorneys for applicant;
L. B. Bell, Cherokee Representative:

- Q What is your name? A Katie Adams.
Q What is your age, Katie? A I am 36.
Q What is your post-office address? A Welch, I.T.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know whether it is, mister, honestly.
Q Is it on any of the rolls? A Yes sir.
Q On the Keys-Clifton pay roll? A Yes sir.
Q On the Wallace roll? A Yes sir.
Q Who do you want to enroll besides yourself? A Me and my children and husband.
Q How many children have you? A I have eight living.
Q Give me the names of those under 21 years of age. A All of them is under age, there's the ages of them. (Hands Commissioner a paper).
Q Albert Adams, how old is Albert? A He is 15.
Q George Edward Adams, 14? A Yes sir.
Q Elias one of them? A Yes sir.
Q 13? A Yes sir.
Q Walter, 11? A Yes sir.
Q Cora? A Yes sir.
Q Cora is 10 I believe? A Yes sir.
Q Elmer eight years of age, Ella? A Yes sir.
Q Five years of age; Cordelia? A 2 years old.
Q Melvin? A He is dead.
Q Eight in all? A Yes sir.
Q Are these children all alive and living with you at this time? A Yes sir.
Q Are you married? A Yes sir.
Q What is your husband's name? A George Adams.
Q Is he a citizen? A No sir, he is a United States citizen; here is his license. (Produces papers)
Q You apply for his enrollment? A Yes sir.

Com'r: Applicant presents certificate of marriage and duly authenticated marriage license, issued by the authorities of the Cherokee Nation, under seal, duly recorded as provided by the laws of the Cherokee Nation, certifying that she was married to one George Adams.

- Q There is no certificate of marriage here? A No sir. I lost the marriage certificate, but I can prove that we were married.

Com'r: Presents duly authenticated marriage license authorizing her marriage with her husband George Adams, said marriage license being issued by the authorities of the

Katie Adams, et al.-- 2.

Cherokee Nation and duly recorded, but presents no certificate of marriage.

Applicant: My husband is 48 years old.

Examined by Smith, of Mellette & Smith, attorneys for app't:

- Q Who was your father? A William Tucker.
Q The man who was just on the stand here, applying for himself?
A Yes sir.
Q Who was your mother? A Lettie, some called her Charlotte, but her name was Lettie.
Q Where do you live? A On Big Cabin.
Q How long have you lived there? A Ever since I can remember anything.
Q Big Cabin in the Cherokee Nation? A Yes sir.
Q How old did you say you were? A I am 36.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q Are these children that you apply for all living with you?
A Yes sir.
Q Where were they born? A In the Cherokee Nation.
Q Where were you and your husband married? A Right in father's house.
Q Where is father's house? A In the Territory.
Q Cherokee Nation? A Yes sir, where I was raised at.
Q Is there anyone here who saw you married? A Yes sir.
Q Who? A Mr. Steven Vann over there and my father.
Q Are you on the Kerns-Clifton roll? A I guess so.
Q Did you draw money at the Kerns payment or the payment that followed the Kerns roll? A Yes sir, and the Wallace too.
Q The payment that followed the Kerns roll, for whom did you draw, for anyone besides yourself? A Yes sir, for me and my oldest children. Drawed for all of them but Ella.
Q You know how you were put down on the Kerns roll, as Katie Adams or somebody else? A I don't know how they put it down; you see father give in my name. I think it was Katie Adams though.
Q What name did you go by before you were married? A Katie Tucker; I never was married but once, this is my first husband.

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page 169 #4164 Walter Adams, Cooweescoowee District;
page 169 #4166 Cora Adams, Cooweescoowee District;
page 169 #4165 Elman Adams, Cooweescoowee District.

- Q Were you on the Wallace roll yourself? A Yes sir.
Q How were you put down on the Wallace roll, as Katie Adams or Katie Tucker? A Katie Tucker.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:
page 98 #2107 Katie Adams, Cooweescoowee District.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicants not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

Katie Adams, et al. -- 3.

- Q Who do you say your mother was? A Her name was Lettie.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A She belonged to Dave Roe, I think; she always told us that was her young master.
Q Was he a Cherokee? A Yes sir.
Q Where did he live? A I don't know sir.
Q Who have you here who knows about who your mother belonged to?
A Oh her sister is here; I guess George Vann knows about her owners, they all lived close together I suppose.

WILLIAM TUCKER, being sworn - having been before sworn, by Commissioner Needles, and being examined by him, testified:

- Q You were married to Lettie? A Yes sir.
Q Have you got a certificate of marriage? A No sir. Married in Kansas, up close to Osewatomie.
Q You were married according to law? A Yes sir, a preacher married us; we didn't get any license.

Examined by Attorney Smith:

- Q When was that that you married? A Oh I guess it must have been about '63. Somewheres in the first of '63.
Q Was that the mother of Katie Adams here? A Yes sir.
Q Where was Katie born? A She was born there in Kansas, just before we came down here.
Q About how old was she when you came down here? A I guess she must have been about 2 years old.
Q Where has she been living ever since you brought her ~~hax~~ here?
A Up here on Cabin Creek close to where I live.
Q How long did you live with the mother of Katie? A Something near about 25 years anyhow.
Q Who was this girl's mother before you married her, what was her name? A They called her Lettie, she belonged to Dave Roe, but she was living with Ben Mush, some called him Ben Wisdom. But her main owner was named Roe.
Q Was he a citizen, an Indian? A Yes sir.
Q In the Cherokee Nation, citizen of the Cherokee Nation? A Yes sir.
Q Where was Lettie when the war commenced? A She was here too, I reckon, I don't know where she was; I come across her in Kansas.
Q When did she come back to the Cherokee Nation? A She come back with me in '66.
Q You say you were married to this woman Lettie, Katie's mother, in Kansas, and lived with her 25 years? A Yes sir.

Examined by Cherokee Representative, L. B. Bell:

- Q Is Lettie dead now? A Yes sir.
Q How long has she been dead? A About eight years; she died just before the Wallace payment.
Q Is this your oldest child? A This is the oldest one by me; you know Gilbert Vann is her oldest one and Steve is the next.
Q This is the oldest child of yours by that last marriage? A Yes sir.
Q When you married this last woman was your first wife dead, Nancy? A Oh, yes, Nancy died before the war.

GEORGE VANN, being sworn by Commissioner Needles, testified as follows:

Examined by Attorney Smith:

- Q State your name? A George Vann.
Q Where do you live? A I live on Verdigris river, Cooweescoosee District.
Q How long have you lived there? A Ever since '74.
Q Do you know this applicant, who sits here, Katie Adams? A Yes sir.
Q Do you know her father? A Yes sir, her father was named William Tucker.
Q Did you know her mother? A Yes sir.
Q Is her mother living? A She is dead.
Q Do you know whether Katie's father, William Tucker, and her mother were married, or whether they lived together as man and wife? A I wasn't there when they married.
Q How long did you know them living together in that way? A I first knowed it in Kansas in about '63 or '64.
Q Do you know when Katie's mother died? A I know, it has been 7 or eight years.
Q When did you first know Katie's mother and William Tucker? A I have knowed Katie's mother all my life.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong? A I believe she belonged, that is she always went by Roe, she lived with a woman called Pollie Mush, Dave Roe's sister.
Q Where? A Down on Spring Creek, in Saline.
Q Do you know whether she went out of the Nation or not, during the war? A Yes sir, she went to Kansas.
Q You know when she came back? A She came back with Bill Tucker in '66.

Examined by Cherokee Representative, L. B. Bell:

- Q You say she came back with Bill Tucker? A Yes sir.
Q How do you know? A I saw them.
Q Where? A Right at Ft. Gibson. We started before they did, and first I saw them after I got back I saw them at Ft. Gibson.
Q They wasn't in that horse Creek fight? A No sir, they wasn't along.
Q You met them at Gibson after you got off of that battle? A Yes sir, the first I saw them after we got back was at Ft. Gibson.

Applicant, KATIE ADAMS, re-called, and further examined;
By Commissioner Needles:

- Q When were you married to George Adams? A When we first married Mr. Riley married us in father's house, and then after that they commenced talking about people marrying according to law, then we got a license and married over again.
Q That was in 1896? A Yes sir, that's the way it was.

Com' r. Needles: Katie Adams applies for the enrollment of herself and eight children; her name is not found upon the authenticated roll of 1880, but is duly identified upon the Kerns-Clifton roll, and the Wallace roll, and the names of her six children, oldest children are identified upon the Kerns-Clifton roll; the names of her two youngest children, Ella and Cordelia are not found upon said roll; it will be necessary for her to make satisfactory proof of their birth; she avers that she is the daughter of William Tucker, and that her mother's name was Lettie, who was a Cherokee slave, the facts being

more fully stated in the testimony; reference is made to the testimony taken in the application of William Tucker for the enrollment of himself and three grand-children, he having been enrolled on card number D-329, testimony in said case will be made a part of the record in the case of the applicant, and copies of the same will be filed with her testimony; she applies for the enrollment of George Adams, her husband, as an intermarried citizen; she presents satisfactory proof that she was married to George Adams according to the laws of the Cherokee Nation in the year 1896, too late, by the provisions of the laws of the Cherokee Nation to acquire any rights, consequently, her application for the enrollment of her husband, George Adams, will be rejected; said applicant and her children enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, by reason of the fact that her name is not upon the authenticated roll of 1880 and her citizenship is contested by the representatives of the Cherokee Nation; when her case is duly considered by the Commission and their conclusion is arrived at, she will be notified of the same, by mail.-----

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this May 17, 1901.

(Signed) C. R. Breckinridge,

Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony now on file in this office.

Larrah Waters.

Subscribed and sworn to before me this Dec 1 1906.

O. P. Rasmus
Notary Public

Subscribed and sworn to before me this 15th day of July, 1901.

Accepted.

[Signature]
Commissioner.

notes thereof. There was complete identification of the aforementioned person in the case, and that she resembled the defendant, and proceeded with the five civilized tribes, he correctly rubbed to the commission to the five civilized tribes, a word, states that a person.

2.0. Person.

Acting Chairman

The evidence of the defendant is not sufficient to warrant a conviction of the defendant.

Noting the Defendant.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
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, DOWNTOWN, as to wife, and children.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 17, 1901.

In the matter of the application of Jerry Foster for the enrollment of himself and wife and three children as Cherokee Freedmen; being sworn and examined by Commissioner Heddles, he testified as follows:

- Q What is your name? A Jerry Foster.
Q How old are you? A Somewhere about 50.
Q What is your post-office address? A Lamapah.
Q In what district do you live? A Cowasogowa.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Ever apply to be enrolled by any other nation or tribe? A No sir.
Q Is your name upon the roll of 1880? A Yes sir.
Q On the census roll of 1896? A Yes sir.
Q Who is it you want to enroll besides yourself? A My wife and three children.
Q What is your wife's name? A Sarah Foster.
Q How old is she? A About 33.
Q What are the names of your children? A Clara.
Q How old is Clara? A 12 years old, the 28th of last September.
Q Next one? A Clarence.
Q How old is Clarence? A Nine years old.
Q Next one? A Carrie, she was born in 1895.
Q Six years old? A Yes sir.
Q Is your wife's name on the authenticated roll of 1880? A I guess she is.
Q What was her father's name? A William Tucker, I think he goes by.
Q What is her mother's name? A Her name was Lattie Vann.
Q Father and mother living? A Her father is living, her mother is dead.
Q Was she ever married before she married you? A No sir.
Q What was her name before you married her? A Went by her father's name.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant identified thereon as page 101 #1046 Jerry Foster, Cowasogowa, adopted colored;
1896 authenticated roll of citizens of the Cherokee Nation examined and applicant's wife not identified thereon.

- Q When were you married to Sarah Tucker? A About 15 years ago.
Q Have you a certificate of marriage? A No sir.
Q Any proof of marriage? A Yes sir.

GILBERT VANN, being sworn and examined by Com'r Heddles, testified as follows:

- Q What is your name? A Gilbert Vann.
Q How old are you? A I am along about 45 or 6.
Q What is your post-office? A Lamapah.
Q Do you know Jerry Foster? A Yes sir.
Q You know his wife, Sarah? A Yes sir.
Q What relation is she to you? A Half sister.
Q You know whether Jerry and Sarah were ever married or not? A Yes sir.
Q How do you know that? A Because I know when they was married.
Q Where were you at the time? A I wasn't exactly at the place.
Q You didn't see them married? A No sir, not exactly.
Q When was that? A It has been about as near as I can get at it, about 15 or 16 years.
Q Have they lived together ever since that continuously as man and wife? A Yes sir.
Q How many children have they got? A They have got four or five. I

Jerry Foster et al 2

never counted them. I can tell you by going over their names.

Q Has he got one named Clarence? A Yes sir.

Q And one Carrie? A Yes sir.

Q One Clara? A Yes sir.

Q Got any others? A That's all, I believe he has got.

Q These children born to him after he was said to be married to Sarah? A Yes sir.

APPLICANT, re-called and further examined, by Con'r Needles:

Q Who married you? A Man named Smith.

Q Is he living? A Yes sir.

Q These children are all living at this time? A Yes sir.

Q You and your wife have been living out lawfully in the Cherokee Nation? A Yes sir, always have, never been out.

Q Your wife's father's name is William Tucker? A Yes sir, she used to belong to George Whitacre.

Q He got a grand son named William Banks? A Yes sir.

BY Charles Rep'tve Hastings:

Q What was your first wife's name? A Edna.

Q When did you and she separate? A It has been a long time, I don't know just how long.

Q Did you had some children by her? A No sir.

Q When did you marry her? A I can't tell just when, it has been a long time.

Q Since the war? A Yes sir.

Q About how many years did you live with her as husband and wife?

A I don't know exactly.

Q Your best judgment, about how many? A Oh must have been 10 or 15 years I guess.

Q Who is married you and her, what preacher? A This same man, Smith.

Q You ever have a divorce from Edna? A No sir, she went off and left and was gone several years, and married again and I married.

Q And you married her? A Yes sir.

Q Was your last wife ever married before? A No sir.

Q This is her first marriage? A Yes sir.

1896 census roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:

page 403 #161 Jerry Foster, Coowasee District;

1895 roll examined for applicant's wife, and name not found.

page 403 #162 Clara Foster, Coowasee District;

page 403 #164 Carrie Foster, Coowasee District;

page 403 #163 Clarence Foster, Coowasee District.

Q Did you draw what is known as Strip money, for your wife?
A Yes sir.

Q Your wife would get her citizenship through her father William Tucker, would she? A Her mother was raised here too.

Q Is her mother on the roll of 1890? A I don't know sir, she is dead.

Q How long has she been dead? A 8 or 9 years.

Wagon-Clifton pay roll of citizens of the Cherokee Nation examined for applicant's wife, and identified as follows:

page 162 #167 Sarah Foster, New Tucker, Coowasee District.

BY MR. JUSTICE:

Q Is Willie Banks and your wife blood kin? A William Banks's mother was a half sister to my wife, they are by different mothers.

Q Same father but different mother? A Same father but not the same mother.

Jerry Foster et al 3

By Com'r Needles:

- Q Is your wife's mother living? A She is dead.
Q Your wife's mother of course was married to William Tucker?
A Yes sir.
Q And Tucker was married before he married your wife's mother, Lottie, was he, or afterwards? A I guess he was married before this other girl was older than these others.
Q What was your first wife's name? A Edna Rowe.

Com'r Needles: Jerry Foster applies for the enrollment of himself, his wife, Sarah and three children, to-wit: Clara, Carrie and Clarence Foster; he is duly identified on the authenticated roll of 1880 as well as the census roll of 1896, and makes satisfactory proof as to residence, his wife Sarah is identified upon the Sam-Clifton pay roll as Sarah Foster; he avers that she is ~~his~~ a child of William Tucker, (by one of William Tucker's wives, Lottie, Vern. She can not be identified upon the authenticated roll of 1880, neither earlier father; it appears that from the records that William Tucker the father of Sarah Foster, applied to be enrolled as a Colored Freedman on May 16, 1901, and was listed for enrollment upon D card 329; the testimony taken in the application of William Tucker, D 329, will be made part of the record in the case at bar, and a copy thereof will be filed with the application of the applicant for the enrollment of his wife; his three children enumerated herein are duly identified upon the census roll of 1896; applicant avers that he was married formerly to one Edna Rowe, from whom he was separated, and he is to no satisfactory proof of divorce; applicant certifies that he was married to his wife Sarah Tucker, but presents no certificate of marriage; - the children are duly identified and satisfactory proof is made as to residence, consequently Jerry Foster will be listed for enrollment as a Colored Freedman, his wife Sarah Foster and his three children enumerated herein will be listed for enrollment as Colored Freedmen upon a doubtful card, awaiting first, satisfactory proof of divorce, between said Jerry Foster and his former wife Edna Rowe before his marriage to Sarah Foster, his present wife; and awaiting proof of citizenship as to Sarah Foster, the whose citizenship depends upon the citizenship of her father, William Tucker; awaiting certificate of marriage between Jerry Foster and his wife, Sarah applicant will be duly notified of the decision of the Commission in the matter of his application when arrived at, and said notification will be sent by mail.

V. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this June 24, 1901.



Commissioner.

Approved and a copy to be sent to the Bureau of Indian Affairs, D.C.

[Handwritten signature]
S. J. [unclear]

[Handwritten signature]

Notes thereof.

There is no evidence of any attempt to
to the Bureau of Indian Affairs, D.C.
to the Bureau of Indian Affairs, D.C.
to the Bureau of Indian Affairs, D.C.

2. O. [unclear]

ACTING CHAIRMAN

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE RIVER CIVILIZED TRIBES

JUL 22

Washington, D.C.

to the Bureau of Indian Affairs, D.C.
to the Bureau of Indian Affairs, D.C.
to the Bureau of Indian Affairs, D.C.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Malinda Beeson for enrollment as a Cherokee Freedman; said Beeson being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Malinda Beeson.
Q How old are you? A 24.
Q What is your post office address? A Welch.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A NO one else.
Q Are you married? A Has been married.
Q What was your husband's name? A John Beeson.
Q What is your father's name? A William Tucker.
Q What is your mother's name? A Charlotte Tucker.
Q Is William Tucker living? A Yes, sir.
Q Is Charlotte Tucker living? A No, sir.
Q Where were you born? A Born in the Cherokee Nation.
Q Lived in the Cherokee Nation all your life? A Yes, sir.
Q Never lived out of it? A No, sir.
Q Through whom do you claim your citizenship your father or mother?
Q Either one.
Q Have they been enrolled here? A Yes, sir, my father is enrolled at Vinita.
Q Where is your mother living? A She is dead.
Q Did you have a sister marry a man by the name of Banks?
A Yes, sir.
Q What is his name? A William Henry.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q What roll? A The Kern and Wallace.

The 1880 authentic roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 168, #4153, Malinda Tucker, Cooweescoowee District.

- Q You say you were born in the Cherokee Nation? A Yes, sir.
Q Always lived in the Cherokee Nation? A Yes, sir.
BY MR. J. S. DAVENPORT: Cherokee Representative.
Q Where were you married, Malinda? A I was married in the Nation.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 141, #2956, Malinda Tucker, Cooweescoowee District.

BY COM'R NEEDLES:

- Q You say you were married in the Cherokee Nation? A Yes, sir.
Q You are positive you have never lived out of the Cherokee Nation?
A Yes, sir.

COM'R NEEDLES: Malinda Beeson applies for the enrollment of herself. She avers that she is the child of William Tucker and Charlotte Tucker. She avers that she is married now to one John Beeson; she cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton and Wallace rolls; she is identified upon said rolls according to the page and number of the rolls as indicated in the testimony. She makes satisfactory proof as to residence, and asks that the testimony taken in the matter of the enrollment of her father, William Tucker, who is listed for enrollment on doubtful card #329, be made a part of the record in the case at bar, which will be done and copy thereof filed herewith. Said Malinda Beeson, nee Tucker, will now be listed for enrollment as a Cherokee Freedman.

Malinda Bessen, --S.

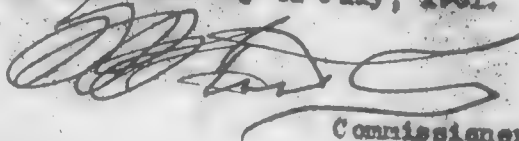
upon a doubtful card. She will be notified at her post office address of the action of the Commission.

---000000000---

J. O. Reason, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Reason

Subscribed and sworn to before me this 17th day of July, 1901.



Commissioner.

S

COPY
CHEROKEE FREEMEN

20 D 330

IN RE
Application for Enrollment of
INFANT CHILD

Ella Adams
as a citizen of

CHEROKEE Nation

Approved May 21 1901 190

T. D. Needles
Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE
FIVE CIVILIZED TRIBES

F I L E D

MAY 21 1901

Tamr Pixby
Acting Chairman.

7

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the

Nation,

of Ella Adams, born on the 26 day of March, 1896
(Here insert name of child.)

Name of Father: George Adams a citizen of the U. S. Nation

Name of Mother: Katie Adams a citizen of the Cherokee Nation.

Postoffice Welch, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,

State of Kansas) ss DISTRICT.

County of La Bette)

I, Katie Adams, on oath state that I am 36

years of age and a citizen by adoption Cherokee Nation;

that I am the lawful wife of George Adams, who is a citizen, by

of the U. S. Nation; that a female child was
(Male or Female.)

born to me on 26th day of March, 1896; that said child has been named

Ella Adams, and is now living.

WITNESSES TO MARK:

her
Katie X Adams
 mark

(Must be Two Witnesses.) { Dan. G. Stewart
Lois E. McAleen

Subscribed and sworn to before me this 18th day of May, 1901.

(S E A L)

My com. ex. 10/10/1903

A. J. Bell

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,

Northern DISTRICT.

I, George Adams father, and , a midwife, on oath state that I

attended on Mrs. Katie Adams, wife of George Adams

on the 26th day of March, 1896 that there was born to her on said date a female
(Male or Female.)

child; that said child is now living and is said to have been named Ella Adams

WITNESSES TO MARK:

his
George X Adams
 mark

(Must be Two Witnesses.) { John Downing
Felix Corbine

Subscribed and sworn to before me this 21st day of May, 1901.

(S E A L)

G. F. Bailey

Notary Public.

CHEROKEE FREEDMEN D 330

COPY.

Cherokee Freedman

"D"

IN RE

Application for Enrollment of
INFANT CHILD

Cordelia Adams

as a citizen of

Cherokee

Nation

Approved May 21 1901 190

T. B. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE
FIVE CIVILIZED TRIBES

FILED
MAY 21 1901

Tams Pixby
Acting Chairman

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Cordelia Adams, (Here insert name of child.) born on the 11th day of Jan, 1899
Name of Father: George Adams, a citizen of the United States ~~1899~~
Name of Mother: Katie Adams a citizen of the Cherokee Nation.
Postoffice Welch I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
State of Kansas }
County of Labette } SS DISTRICT.

I, Katie Adams, on oath state that I am 36
years of age and a citizen by adoption of the Cherokee Nation;
that I am the lawful wife of George Adams, who is a citizen, ~~1899~~
of the United States Nation; that a female child was
(Male or Female.)
born to me on 11th day of January, 1899; that said child has been named
Cordelia Adams, and is now living.

WITNESSES TO MARK: her
Katie X Adams
mark

(Must be Two Witnesses.) { Dan. G. Stewart
Lou E. McAlleen

Subscribed and sworn to before me this 18th day of May, 1901
(S E A L)
My Com ex. 10/10/1903 A. B. Bell
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
State of Kansas }
County of Labette } SS DISTRICT.

I, Mary Hudley, a midwife, on oath state that I
attended on Mrs. Katie Adams, wife of George Adams
on the 11th day of January, 1899; that there was born to her on said date a female
(Male or Female.)
child; that said child is now living and is said to have been named Cordelia Adams

WITNESSES TO MARK: her
Mary X Hudley
mark

(Must be Two Witnesses.) { Dan G. Stewart
Lou F. McAlleen

Subscribed and sworn to before me this 18th day of May, 1901
(S E A L)
My Commission will expire 10/10/1903 A. B. Bell
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications of:

William Tucker et al.,
Katie Adams et al.,
Lucinda Whitmire,
Sarah Foster,
Malinda Beeson,

Cherokee Freedmen D 329
Cherokee Freedmen D 330
Cherokee Freedmen E 352
Cherokee Freedmen D 739
Cherokee Freedmen D 969

DECISION.

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee freedmen were made to this Commission, in 1901, by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and his five minor children, William, Lettie, Mose, Edward and Sequoyah Whitmire; by Jerry Foster for himself, his wife, Sarah Foster, and his four minor children, Clara, Clarence, Carrie and Cora Foster, and by Malinda Beeson for herself. The applications made for the enrollment of Zeke Whitmire, William Whitmire, Lettie Whitmire, Mose Whitmire, Edward Whitmire, and Sequoyah Whitmire, applicants in C. F. D. 352, and Jerry Foster, Clara Foster, Clarence Foster, Carrie Foster, and Cora Foster, applicants in C. F. D. 739, have been heretofore determined, and are not included in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein except the applicants in C. F. D. 329, were born since the commencement of the war of the rebellion, and claim their rights

to enrollment as Cherokee freedmen by reason of being descendants of William Tucker, the principal applicant in C. F. D. 329, who, at the commencement of the war of the rebellion was the slave of a Cherokee citizen; that during said rebellion the said William Tucker removed from the Cherokee Nation to the state of Kansas, but returned to said Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitwire, trustee, etc. vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation.

All of the applicants herein except the applicants in C. F. D. 329 and C. F. D. 352, have resided continuously in the Cherokee Nation from the date of their birth up to and including September 1, 1902, and William Tucker, the principal applicant in C. F. D. 329, has resided continuously in the Cherokee Nation from his return to said Nation in 1866, up to and including September 1, 1902.

William Banks, Iron Banks and Virdie Banks, the minor applicants in C. F. D. 329, were born since 1866, and are the children of one Mary Banks, who at the commencement of the war of the rebellion was the slave of a Cherokee citizen, and who, during said war, continued to reside in the Cherokee Nation; that about the year 1874, said Mary Banks removed to the state of Kansas, where she married one William Banks, a citizen of said state, and continued to reside therein until the date of her death in 1894. The evidence fails to show that said Mary Banks has at any time possessed any property in the Cherokee Nation.

In view of the above facts it is considered that said Mary Banks forfeited her right to citizenship in the Cherokee Nation, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

William Banks, Iron Banks and Virdie Banks, were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their said mother. None of the applicants herein can be identified on either the 1890 authenticated Cherokee roll or the 1896 Cherokee census roll.

The evidence further shows that Lucinda Whitwire, applicant in C. F. D. 352, died prior to September 1, 1902.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two and the names of all persons then living, and entitled to enrollment on that date, shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cera Adams, Riner Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Deesen, should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 20, 1896 (30 Stat., 495); and that the application made for the enrollment of William Banks, Irene Banks and Virgie Banks, as Cherokee Freedmen should be denied, under the provisions of the Act of Congress above cited.

It is further the opinion of this Commission that the application made for the enrollment of Lucinda Whitmire as a Cherokee Freedman, be, and the same is, hereby dismissed, under the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(SIGNED).

Tame Dixby.

Chairman

T. B. Needles.

(SIGNED).

Commissioner

Commissioner

Dated at Muskogee, Indian Territory,
this JUN 11 1905

75329

CONFIDENTIAL - EYES ONLY

THE END

JAN 30 1996

COMMISSIONER

Cherokee Freedman D 329
" " D 330
" " D 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JANUARY 25, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL.; as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee nation, James S. Davenport.

The records of this office show that on January 6, 1906, the applicants, their attorney, and the attorneys for the Cherokee Nation were duly notified by letter, that on December 16, 1905, the Secretary of the Interior remanded this case for further hearing as to the reliability of the applicants' witnesses, Luster Foreman and L. D. Daniels, and that they would be permitted to appear on January 25, 1906, and introduce further testimony, at which time the following proceedings were had.

W. C. CHAMBERLAIN, being first duly sworn, testified as follows: on behalf of Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A W. C. Chamberlain.
Q What is your post office? A Vinita, Indian Territory.
Q How long have you lived at or near Vinita, Indian Territory? A I come there in 1874, , lets see, about 41 years.
Q Did you know Luster Foreman during his life time? A Yes sir.
Q How long did you know him before his death? A I knew him from about 23 or 24 years.
Q Did you know his reputation in the community in which he lived for being a truthful and reliable man?

By Mrown: I object to that question in that form.

On Behalf of the Commissioner: Objection noted.

- Q Did you know Luster Foreman's reputation in the community in which he lived during his life time for truth and veracity?
A Yes sir.
Q Was that reputation good or bad? A It was bad.
Q From that reputation would you believe him on oath? A I would not.

BY BROWN:

- Q Mr. Chamberlain, Luster Foreman lived in Vinita for a number of years didn't he? A Yes sir.
Q You were personally acquainted with him during his life time and during the number of years he lived in Vinita? A Yes sir.

- Q Luster was one of those jolly kind of fellows that carried on a great many jokes with the people in and around town? A Yes sir.
- Q He was that kind of a fellow that every citizen who lived there always liked to joke with him in some manner? A Yes sir.
- Q Did you ever have any business relations with him? A I don't know whether I did or not, I must have had some, I don't remember any particular business.
- Q Can you remember any you have ever had with him? A No sir.
- Q Now then on business matters, business obligations and matters of that kind, are you prepared to state to this commission that you would not believe him on oath?

Mr. Havenport: I object to that as not being a proper question with reference to a man's truthfulness.

On Behalf of the Commissioner: Objection noted.

- A No sir, I would not.
- Q Are you testifying as to what you know personally about this man?
- A Well what I have heard and know too.
- Q Who did you ever hear say that Luster Foreman wasn't to be believed? A Well I don't remember any particular person, the general community though would not believe him.
- Q Yet you cannot give us the name of a single individual who told you they would not believe him, can you? A I don't remember any particular person.
- Q Mr. Chamberlain did you ever hold any official position in the town of Vinita? A Yes sir.
- Q What positions have you held? A I have held all the positions offered there in the town.
- Q You used to be Mayor of the town? A Yes sir, several times.
- Q Luster Foreman has testified in your courts? A I don't remember of any times.
- Q Are you willing to say he hasn't testified? A I don't remember of him being in court before me.
- Q Don't you know as a matter of fact that he has been a witness several times and upon his testimony you rendered a decision and assessed a fine and punishment to the defendant? A No sir, I don't remember any particular case.
- Q Would you swear you haven't done that? A No sir, I don't remember what case I tried, it may be a matter of record there, I was Mayor 4 or 5 years there at different times.
- Q You can't give this Commission the name of a single individual who has ever told you that Mr. Foreman's reputation for truth and veracity is bad, and that they would not believe him on oath, can you? A Why I could I suppose, if I would remember the names, I don't remember any particular one though.
- Q Luster was what we sometimes term a jolly good fellow and told a great many tales which most everybody in the community and we all looked upon that way? A I don't remember of him telling many ~~like~~ tales, he was sort of a darkey,--- you know how he was.
- Q Isn't that the truth, wasn't he one of those fellows that every time you meet him you expected him to tell something new, and when you passed around the neighborhood wasn't he a sort of a good old darkey that had something new to say to you? A He was on that order.
- Q Don't you know as a matter of fact that the Attorneys for the Cherokee Nation at the time the Commission to the Five Civilized Tribes commenced to make a roll of freedmen citizens of the Cherokee nation, employed Luster Foreman to assist them in determining who were the citizens and also introduced him in a large number of cases as a witness in their behalf? A I don't know that.

- Q Don't you know as a matter of fact that John W. Wallace, representing the United States Government, and the man who made what is known as the Wallace roll, that in making that roll carried with him Luster Foreman, and that Luster Foreman's testimony was used in a large number of cases upon which the Wallace roll was made?
- A I don't know.
- Q Don't you know as a matter of fact that he did testify in a large number of cases before the Wallace court? A I have heard he did, but I don't know myself.
- Q You resided in Vinita at that time? A I think I was at Tahlequah at that time.
- Q Didn't you reside in Vinita when Mr. Wallace was in Vinita making the roll? A I don't know that for sure, what year was that?
- Q '89? A I was at Tahlequah at that time, my home was there but I was at Tahlequah.
- Q As a matter of fact don't you know Luster was there?

Mr. Davenport: I object to that because the Cherokee Nation was not represented before Wallace in making that roll and he might have used the most unreliable men in the world in making that roll.

By Brown: In reply to that the attorney for the applicants desires to state that the records of the department show that the Cherokee Nation were given an opportunity to be represented at that hearing and that they refused to appear, and they are therefore bound to whatever Mr. Wallace did.

Mr. Davenport: To that the Cherokee nation's representatives state that the Department has held that they are not bound by that, and not even in the Kern-Clifton roll made several years later.

On Behalf of the Commissioner: Objection noted.

WITNESSES EXCUSED.

GEORGE W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A George W. Clark.
- Q What is your post office? A Vinita, Indian Territory.
- Q How long have you lived at Vinita and near there? A I have lived there and near there 41 years.
- Q Did you know Luster Foreman during his life time? A Yes sir, I knew Luster.
- Q Did you know his reputation in the community in which he lived prior to his death for truth and veracity, that question can be answered yes or no? A Yes sir.
- Q Was that reputation good or bad? A Well it wasn't county very good, Luster wasn't.
- Q From that reputation would you believe him on oath where he was interested in any matter?

By Brown: The question is objected to it not being properly put.

On Behalf of the Commissioner: Objection noted.

A Well I would not myself.

BY BROWN:

- Q Mr. Clark if he wasn't interested in the matter at all would you believe him on oath? A Well I would have to know it myself, I was acquainted with him along time, I knew him when I soldiered.
- Q Now coming up as to the matter as to when some person possible returned within a certain neighborhood and taking your knowledge of his reputation and taking the man as you knew him, would you believe him? A There is where he broke my confidence, in testifying in these cases.
- Q Are you testifying what you know yourself? A Yes, there is where he broke my confidence.
- Q How close do you live to Vinita? A I live in the town of Vinita now.
- Q How close did you live to the town of Vinita prior to the time Luster Foreman died? A I don't remember just how long I had lived there prior to Luster's death.
- Q How long did you live on your farm there south east of Vinita? A There in that neighborhood 41 years, not on the same farm.
- Q When did you first go on that farm? A I went up there in 1865, been there in the neighborhood ever since.
- Q The truth is you have lived on a farm southeast of Vinita? A Southeast and southwest ever since the war.
- Q How long have you had a residence in the town of Vinita? A 20 odd years.
- Q Do you mean by that that your family has resided in the town of Vinita for that number of years? A That is what I mean first and last.
- Q Now lets get at it as it is, how long has your family resided continuously in the town of Vinita? A Well I don't exactly recollect the year we moved there, but I know 20 years ago this coming February my family was living there off and on and I stayed all night there with my folks. There was a snow fell there 22 inches deep.
- Q Isn't it a fact until a year or two ago that you spent most of your time out on the farm? A Yes most of my time, I generally went home sometimes twice a week and sometimes once a week, and sometimes 3 or 4 times a week.
- Q Luster Foreman was one of those old plantation darkies and always had something funny to tell you and some joke when you met him? A Always yes.
- Q Every time you met him didn't you expect him to tell you something funny? A Yes.
- Q He was simply one of those jolly good fellows that you always liked to meet? A Yes, we all picked at him.
- Q And he always told you some funny tale or story that you didn't believe? A Yes.
- Q Nobody never came to you and told you they wouldn't believe Luster Foreman on oath did they? A I don't know as anybody did.

BY MR. DAVENPORT:

- Q You have heard a great deal of talk of how Luster would swear & haven't you? A

By Brown: Objected to on the ground the question is leading and suggestive to the answer.

On Behalf of the Commissioner: Objection noted.

- A I have heard a right smart outside talk how he would swear in regard to these claim cases.

BY BROWN:

- Q Who ever talked about that Mr. Clark? A Well I have heard it in just a general conversation.
- Q Can you name a single person that you have heard say that? A Well I suppose I could.
- Q All right lets have the person? A Well I have heard Mr. McClellan.
- Q That is Charles McClellan is it? A Yes.
- Q He is a witness here in the case? A I believe he is.
- Q Who else? A I have heard Captain Bell speak about him.
- Q You mean L. B. Bell? A Yes.
- Q Who is Attorney for the Cherokee Nation? A Yes.
- Q Who else? A Well I have heard various ones.
- Q Those are the only persons whose names you can call is it?
- A Well in conversation around I have heard a good many but didn't exactly recollect, I have heard them say that they would not believe him on oath.
- Q You have heard a great many? A Yes.
- Q And the only persons whose names you can call is Charley McClellan, a witness in this case, and Col. L. B. Bell, one of the attorneys for the Cherokee Nation? A Well I guess it is.
- Q Now when was it you had this conversation with Mr. McClellan when he stated he would not believe Luster Foreman on oath? A I don't remember.
- Q When was the last time? A I don't remember.
- Q About how long as it been ago? A I don't remember.
- Q Has it been since you were subpoenaed as a witness in this case?
- A No, I haven't talked to any of them since then, I was just subpoenaed day before yesterday.
- Q You came down on the same train with Mr. McClellan did today didn't you? A No, I think he come from Claremore, I understood him to say he got in here last night.
- Q How long has it been since Mr. McClellan lived in and around Vinita? A It has been sometime.
- Q About how many years? A Since he lived there?
- Q Yes sir? A I don't know as he ever did make his home there.
- Q The truth is Charley McClellan never lived in the town of Vinita in his life? A No, I don't believe he did, he has been there and owned property there but I don't think he ever made a residence there.
- Q When was it you talked to Col. L. B. Bell about this man's reputation as to truth and veracity? A I don't know as I had very much talk about it at all, he told me he wanted me to come down here in this case.
- Q And that was the time he told you that he would not believe Luster on oath? A I don't know as it was, he asked me if I would believe him on oath.
- Q It is just a question now isn't it? A No, not now cause he is dead.
- Q And that is the only reason now? A No, I wouldn't believe him if he was alive.
- Q When was it you talked to Mr. L. B. Bell, one of the attorneys for the Cherokee Nation in which he stated to you or in your presence that he would not believe Luster Foreman on oath? A I can't remember when it was. When he asked me he said he wanted to try to impeach Luster.
- Q Did Col. L. B. Bell ever state to you that he would not believe Luster Foreman on oath? A I don't believe he did.

BY MR. DAVENPORT:

- Q Luster lived around Vinita there ~~xxxx~~ for several years didn't he?
- A Yes sir.
- Q What did he do around there? A He lived around there and I think worked around right smart for the town I didn't pay any attention to him, had more business of my own that I could attend to.

WITNESSES EXCUSED.

CHARLES M. McCLELLAN, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. DAVENPORT:

- Q What is your name? A Charles M. McClellan.
Q What is your post office? A Claremore.
Q How long have you lived at or near Claremore? A Well, I moved up in that country in 1870 I believe it was.
Q Did you know a fellow by the name of L. D. Daniels? A Yes sir.
Q How long have you known him? A I don't recollect, I have known him a long time.
Q Did he ever live in Claremore or in that community near Claremore?
A Yes sir, I think he lived there, I don't know just exactly how long but a year or so, maybe a year and a half.
Q Did you know him before he lived there? A Yes sir.
Q Where was he living when you first knew him? A He lived way above there somewhere but he used to always be at Court and around.
Q Did you know him when he lived in or near to Claremore? A Yes sir.
Q How far is that to where you lived? A About 7 miles.
Q Where was your place of marketing and going to post office? A He lived in Claremore and that was my post office.
Q Do you know his reputation in the community in which he lived there at Claremore for truth and veracity? A I think I do, yes sir.
Q Do you know his reputation in the community in which he lived upon the Verdigris River, for truth and veracity.

Mr Brown: At this time I ask the attorney for the Nation to confine his questions to the neighborhood in which L. D. Daniels resided.

Mr. Davenport: The attorney for the Cherokee Nation is asking the questions and if he is making any objections let him make them. I have asked him if he knew his reputation in the community in which he lived on the Verdigris River.

A Yes sir, I think I do.

By Brown? A The answer is objected to for the reason the witness should state yes or no.

On Behalf of the Commissioner: Objection noted.

A Yes.

- Q Did you ever know of him living in any other community other than the community on the Verdigris River above Claremore and the Claremore community? A I don't know just where he lived but he was nearly always at Court there.
Q Was his reputation in which he lived at Claremore for truth and veracity good or bad? A Bad, very bad.
Q Was his reputation on the Verdigris River where he lived for truth and veracity good or bad? A Bad.

BY BROWN:

- Q How long have you lived in and around Claremore? A About 35 years.
Q How long had you been living in and around Claremore until you became acquainted with L. D. Daniels? A I don't know, I think I knew L. D. when I first went up there.
Q Where was he living then? A I think up somewhere about Coody's Bluff, I am not positive where he did live I would only see him at the Court house.

- Q When you would see him around the Court house what would he be doing? A Oh spouting some of his big yarns, you know what a great gasser he is, you knew him.
- Q About how often would court meet at Claremore at different times? A Oh at different times.
- Q How often? A I don't know how often, just owing to the amount of business they had, at elections and court.
- Q How long did he live in and around Claremore where you have lived? A I think he made his home there something near two years.
- Q About when was it he moved in that vicinity, about what year? A I don't recollect what year he moved there.
- Q What is your best judgment? A Well I have seen him there, I never was about his house, I don't know just when he did move there, but I had seen him there after he was living there, he told me himself here a few years ago but what time he come and when he left I don't know.
- Q What is your best judgment? A I don't know when he moved.
- Q You don't know the year? A No.
- Q Don't you know about what year? A He has been off and on there all the time, I don't know just when he told me he was living there, that has been about some 3 or 4 years ago I guess.
- Q It was after the Commission to the Five Civilized Tribes commenced to make the roll of Cherokee freedmen that L. D. Daniels moved in the vicinity of Claremore, wasn't it? A I don't know just when he moved there, he used to be there, but I know he told me he was living in town, that has been some 3 or 4 years ago, I don't know just exactly the date, I didn't come to town very often but in public gatherings always found L. D. there.
- Q L. D. Daniels was a very prominent man in politics, about as prominent as a man of his color? A Yes to hear him tell it.
- Q You expected him when you went there? A I pretty near always seen him, didn't expect it that I remember of.
- Q Who ever told you that they would not believe L. D. Daniels on oath? A If I have heard one I have heard fifty.
- Q Name one? A I don't know who all I haven't heard.
- Q Name one? A All my associates there that I know, I have talked about him, Clem Rogers, Major Lipe.
- Q He is dead? A Major Lipe dead, when did he die?
- Q Who else? A Watt Starr, he just died a few days ago.
- Q Who else? A Everybody I have heard talking about it, well I don't recollect every man I have heard talk about him.
- Q Now those are three persons you have heard talk about him, one of which is dead, you say there about fifty? A There might have been twice fifty, I never ~~heard~~ heard anybody say anything else about him.
- Q Now can you name another individual that told you that they would not believe L. D. Daniels on oath? A Yes.
- Q All right? A Bean Burgis, I don't know everybody that I have heard talk about him.
- Q Now that is four, it is very important that you name them, now name another? A Everybody that I know of.
- Q Call some of their names? A Well I don't recollect who all.
- Q Of the large number of people you have heard talk about him you can name those four? A Well I can't ~~name~~ remember everybody that I have heard talk about him.
- Q Name some of them? A Davenport.
- Q That is J. S. Davenport one of the Attorneys for the Cherokee nation? A Me and him have talked about it.
- Q One of the attorneys for the Cherokee Nation? A That is what I understand he is attorney.
- Q Now name another? A Bill Chambers and Teece Chambers.

- Q You have heard Teece talk about him? A Yes, all I ever heard him say about him, it is just common talk that L. D. Daniels is the biggest liar on earth.
- Q Is there any one else you can recollect? A All my neighbors around there that I have heard talk about him.
- Q When was it you had a talk with Clem Rogers in which he told you that he would not believe L. D. Daniels on oath? A I don't recollect the date.
- Q Tell me the year? A Well I think I heard him say so right recently.
- Q Now when was it with reference-----? A How do you expect to recollect the date about which-----
- Q When was it in reference to the time you were subpoenaed in this case? A I think we were talking about it last week.
- Q In reference to the time you were subpoenaed as a witness in this case? A I think that is the way this conversation come up, I told him I was subpoenaed down here in this case and we were talking about it.
- Q Did you bring the matter up with him or he with you? A I don't recollect that.
- Q Where were you standing? A I don't remember that, over there in Claremore though.
- Q Don't you remember what place it was? A No, I don't.
- Q When was it you had a conversation with Major Lipe and he told you he would not believe L. D. Daniels on oath? A It has been along time ago.
- Q About how long ago? A I couldn't say, two or three years, a year or so, we are close neighbors.
- Q Since the Commission to the Five Civilized Tribes began making a roll of Cherokee freedmen? A I think it was.
- Q When was it you talked to Watt Starr? A I don't remember that.
- Q What is your best judgment? A Sometime--I think the last time I was at his house, sometime this last fall.
- Q And this fellow Bean Burgis when was it you talked to him about it? A I think we were talking about it since I was subpoenaed down here.
- Q Who brought the conversation up, you or he? A I don't remember anything about that.
- Q When was it you talked to Writpavenport about it? A I don't recollect, it seems to me about a year or two.
- Q Since the Commission has commenced to make a roll of Cherokee freedmen was it? A Yes, since then.
- Q When was it you talked to the Chambers boys about it? A I don't remember.
- Q Your best judgment? A Within the last 3 or 4 years.
- Q In all these conversations that you have had in which parties have told you that they would not believe L. D. Daniels on oath how would the conversation come up? A Just be talking generally that is just common talk there at Claremore, that he is the biggest liar on earth and wouldn't believe him.
- Q These people just come up and told you that they wouldn't believe him? A It was just common talk.
- Q Can you remember anything else that you talked about in those conversations except what these people told you in regard to L. D. Daniels? A Just talked about what we thought he would say.
- Q Can you remember anything else you talked about besides this? A I don't know as I do.
- Q You are a citizen of the Cherokee Nation by blood? A No.
- Q By adoption? A Yes.
- Q Your family are Cherokees by blood? A Yes.

- Q You are prejudice to some extent against persons claiming citizenship because they were former slaves of Cherokees? A Well ~~but~~ I don't know but what I am.
- Q Do you know Mr. Chamberlain who has just testified in this case?
- A Yes sir.
- Q Did you ever have a talk with him about L. D. Daniels and Luster Foreman? A I don't remember that I ever did, I don't remember every little conversation that has come up, I might have been in company with somebody else, I don't remember such things. I know the common belief so far as L. D. Daniels, what the people say where we live where he has been.
- Q Do you remember when John W. Wallace made what is known as the Wallace roll? A Yes.
- Q Were you in and around his court during that time? A I don't think he was.
- Q Who subpoenaed you? A Mr. Bell had me subpoenaed.
- Q When? A Last week.
- Q The truth is Mr. McClellan about all the conversations you have had with reference to this particular matter has been since you were served with the subpoena? A With these different parties.
- Q The parties whose names you have given this Commission? A In regard to L. D. up there since that?
- Q Yes? A Some of it has and some has not.
- Q All of the conversations have been since the Commission commenced to make a roll of the Cherokee freedmen? A I have heard people speak about old L. D. 20 years ago, he was the biggest liar on earth.
- Q Did you live in the vicinity in which L. D. did? A I lived in Cooweescoowee District and he did and he was there. He would stand around and gag and fellows would say that is some of L. D.'s lies.
- Q You don't know where L. D. lives now, do you? A No.
- Q You don't know how long it has been since he ~~lived~~ left the town of Claremore? A No.

W I T N E S S E X C U S E D .

BEAN BURGIS, being first duly sworn, testified as follows on behalf of the Cherokee nation:

BY MR. DAVENPORT:

- Q What is your name? A Bean Burgis.
- Q What is your post office address? A Claremore.
- Q How long have you lived in Claremore? A 19 years.
- Q Do you know L. D. Daniels? A Yes sir.
- Q Did he ever live in Claremore? A Yes sir.
- Q How long have you known L. D. Daniels? A I have knowed him for years, several years.
- Q Do you know what his reputation in the community of Claremore in which he lived at one time is for truth and veracity?

By Brown: Object to that on the ground it is incompetent.

On Behalf of the Commissioner: Objection noted.

A Yes sir.

- Q Was that reputation good or bad? A Well it was bad.

BY BROWN:

- Q Who told you it was bad? A People generally all told me.
- Q Well now name one? A One that said it was bad?
- Q Yes sir? A I could mention several.
- Q Mention one? A Well the Chambers, one or two of the Chambers.
- Q They was the same Chambers about which Charley McClellan testified?
- A I don't know what Charley McClellan testified to.
- Q Well now when you say the Chambers who do you mean? A The Chambers family.
- Q What are their names? A There are several of them, big family of the Chambers, William Chambers, Teece Chambers and there were several of them.
- Q Who else told you that L. D. Daniels reputation for truth and veracity was bad? A Well I never paid any attention to who it was bit it was generally spoken.
- Q Who generally spoke it? A All of them.
- Q Name some of them? A Well Charley McClellan.
- Q Charley McClellan is a witness in this case? A I don't know.
- Q He is here isn't he? A Yes sir.
- Q He came in this room and testified just before you did? A I don't know, I wasn't out there, he might have.
- Q Well who else? A Well there are lots of them, I don't recollect their names, it is the general impression of the people.
- Q Now you have named the Chambers boys and Charley McClellan, can you name any one else? A Not in particular, there are lots of them.
- Q When was it Teece Chambers told you he would not believe L. D. Daniels on oath? A He never told me that.
- Q Well did William Chambers tell you that? A He never told me that.
- Q When was it Charley McClellan told you? A I have heard him say several times.
- Q When? A I never set the date down.
- Q When was the first time? A I don't recollect.
- Q When was the last time? A I don't know.
- Q Did he ever? A Yes.
- Q Well when? A I told you I don't recollect, I heard him tell it to a crowd.
- Q Who was in the crowd besides you and McClellan? A I don't know, I never looked around to see who was in the crowd.
- Q Was there any one in the crowd when he told you that? A It was just the general impression of the people.
- Q Was there any one else in the crowd? A Lots of them.
- Q The only person you remember was Charley McClellan? A He was talking.
- Q He is the one that did the talking? A Yes.
- Q And he is the one that is a witness here today? A I guess so.
- Q Where was this conversation held when Charley McClellan told you he would not believe L. D. Daniels on oath? A In Claremore.
- Q Whereabouts? A In the town.
- Q In the north, south, east or west? A Neither one, about the middle.
- Q In what place? A On Main Street.
- Q What place of business? A Well, several places of business along there.
- Q Name one? A Close to the Drug Store, close to the Hotel, and close to the restaurant on the public street there between all these houses.
- Q Now when was it? A I don't know exactly I never set the date down.
- Q What is your best judgment? A It has been sometime ago.
- Q Was it 20 years ago? A No.
- Q Was it five days ago? A It has been longer than 5 days ago.

- Q Give your best judgment? A Do you want me to tell the day.
 Q I want you to tell as near as you can? I told you as near as I can, it was on the street where he said it.
 Q You don't know when it was? A No.
 Q You don't know where it was? A I told you where it was.
 Q Could you swear it was on Main street? A Yes.
 Q Can you give the name of a single individual outside of Mr. McClellan who were present when you had this conversation? A I told you once, I don't know who all were around there.
 Q But you did know Charley McClellan? A Yes, because he was talking.
 Q Were you looking at the rest of them? A Yes, I sometimes looked around.
 Q How did this conversation come up? A Well I don't recollect how it come up, what first started it or nothing of the kind.
 Q All you know---? A I heard some of them, some men made a remark and said we understand that they are going to get after L. D. Daniels about swearing some folks in on the roll.
 Q That is since McClellan was subpoenaed down here as a witness? A I don't know as it was.
 Q How long have you known L. D. Daniels? A For a number of years.
 Q Where does he live now? A I don't know exactly where but way up towards Coffeyville somewhere.
 Q Have you ever been to his house? A No sir.
 Q Do you know what his post office address is? A No sir.
 Q Do you know how far he lives from the railroad? A No sir.
 Q You don't know where he lives do you? A I know he lives up the other side of Claremore.
 Q How do you know? A He said so.
 Q How long did he live in and around Claremore? A A year or two.
 Q Have you talked with anybody about this case since you have been here? A No.
 Q Not a soul? A No.
 Q Did you tell anybody that you had had a conversation with some parties in which Mr. McClellan told you that the reputation of L. D. Daniels for truth and veracity was bad? A No.
 Q Have you had a conversation with any man in which you have told him? A No.
 Q Then will you explain to this Commission why it was you were subpoenaed here as a witness?

Mr. Davenport: I object to that, it isn't necessary why he should explain why he was here as a witness.

On Behalf of the Commissioner: Objection noted.

- A As far as that is concerned, I haven't talked to any of the Commission.
 Q But have you talked with anybody else representing the Cherokee Nation? A I have talked with lots of people but not in regard to the case.
 Q Did you know that you were going to be asked when you came upon this witness stand as to the reputation of L. D. Daniels in the community in which he lives in regard to his truth and veracity? A No, I was subpoenaed down here in the L. D. Daniels case.
 Q Didn't you have a conversation out in the hall just awhile ago with Joe Davis in which you stated that you didn't know anything about L. D. Daniels reputation? A I don't know Joe Davis.
 Q Do you know Lum McHair? A Yes, we were all talking out there and I have found out here since I have been here and I said if the balance of them didn't know no more than what I do, I don't know what they will do.

- Q You say you have found out since you came here what you came here for, now you did have a conversation out there in the presence of Joe Davis and Lum McHair? A Yes.
- Q That was prior to the time you were called in here to testify?
- A Yes.
- Q At that time didn't you state that you didn't know anything on earth about the reputation of L. D. Daniels? A No/

W I T N E S S E X C U S E D .

GEORGE W. CLARK RECALLED:

BY LOUIS T. BROWN:

- Q Mr. Clark you are a citizen of the Cherokee by blood? A Yes sir.
- Q You naturally have some prejudice against persons claiming citizenship by reason of the fact that they were former slaves of Cherokee Indians?

Mr. Davenport: I object to that, he has got no right to call and make a witness his own and show his prejudice or bias one way or another.

On Behalf of the Commissioner? Objection noted.

- A I don't know as I have. I think it was a bad Treaty that put them in but then I have got to abide by it.
- Q You would not swear that you haven't? A Yes I would swear that I have none against those that returned within six months after the ratification of the Treaty. I have been witness for several of them in their behalf where they returned.
- Q You have testified in a great number of freedmen case for the Cherokee Nation? A I have testified in several, yes.
- Q You are the same Mr. Clark who testified that the Horse Creek Fight occurred in 1867, are you not? A I am the same identical man.

W I T N E S S E X C U S E D .

JERRY FOSTER, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q What is your name? A Jerry Foster.
- Q What is your post office address? A Eaton, Indian Territory.
- Q About what is your age? A I am 50 somewhere, I don't know exactly what.
- Q Do you know the applicant William Tucker? A Yes sir, I have known him all my life.
- Q When did you see him, if at all, for the first time after the close of the war?

Mr. Davenport: Now the representative of the Cherokee Nation object to going into the original case unless it be understood now that if testimony be brought out on the original case that this case be continued until such a time that the representatives of the Cherokee Nation have time to get testimony to rebut it, it being understood that the case set today was on the ground for the impeachment of Luster Foreman and L. D. Daniels.

Louis T. Brown: The applicants desire to state that this case was sent back to the Commissioner for the purpose of permitting the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, and also stated that the applicants would have an opportunity to rebut what testimony the Cherokee Nation might introduce. The applicants desire at this time to prove by the witnesses they shall introduce that when L. D. Daniels and Luster Foreman testified that when the applicant was in the Cherokee nation in the fall of '66 that they testified to what was true, and in the mind of the applicants it is clearly admissible.

On Behalf of the Commissioner: Objection noted.

- A The first time I seen him after the war we moved from Fort Gibson upon Grand River and I saw him at Bunk Markham's store, in the fall of '66.
- Q Had you known him prior to that time? A Yes sir, ever since I was a boy.
- Q And when you saw him at Bunk Markham's in the fall of '66 did you recognize him? A Yes sir, I did.
- Q Have you known him continuously since that time? A Yes sir.
- Q Where has he resided? A He has been living up here on Cabin Creek quite awhile, for years.

BY MR. DAVENPORT:

- Q How old are you now Jerry? A I am 50 some odd.
- Q And how near did you live to Tucker before the war? A It must have been, not over ten miles. if that far.
- Q What became of you during the war? A I stayed here at Fort Gibson.
- Q What relation are you to Tucker? A I am no relation to him.
- Q By marriage? A Only by marriage.
- Q What is that? A I married his daughter.
- Q Your wife then is William Tucker's daughter? A Yes sir, she is.
- Q Well after the war you moved from Fort Gibson to what place?
- A Upon Grand River to the Martha Vann place.
- Q Who was living there? A Sam Downing and Lewis Downing. And lot of Indians around there.
- Q That is on the west side of Grand River? A No sir, on the east side of Grand River.
- Q What time of the year did you go up there? A We moved up there in the spring along in April when we left Fort Gibson.
- Q That was what year? A It was in '66. '65 I raised a crop over there in the bottom at Gibson and in '66 moved upon the Lewis Downing place.
- Q And Tucker came there when? A It was in the fall of '66 when I saw him there at Bunk Markham's store.
- Q Where was the store? A It was right up a hollow there.
- Q How far from the Martha Vann place? A It must be three miles.
- Q Was it on the west side or east side of the Grand River? A On the east side.
- Q Near whose place was this store you saw him at? A It was Bunk Markham's place.
- Q Was Bunk living there at that time? A Yes sir, running a store there.
- Q You never saw William Tucker at that time until after Bunk Markham opened up his store? A He had his store opened up when I went there.

- Q Who was with Tucker at that time? A He was the one, I know there was a lot of people that lived around there, Eli Vann, George Vann, Spring Creek George--
- Q Well where did Tucker locate then? A Over there close to Joe Vann's, in there somewhere.
- Q Don't you know where he located? A No sir, I don't, I didn't go over to where he lived.
- Q Then how long after that until you saw him again? A I saw him several times until I moved back to Gibson.
- Q How ~~often~~ near have you lived to Tucker since that time? A Of course, I don't live right at him, I have got a place right at him, I have known him all my life.
- Q When were you and his daughter married? A About 16 years.
- Q Where was Tucker living when you and she were married? A On Cabin Creek where he is living now.
- Q What part of Cabin Creek? A 12 miles south of Chetopa.
- Q How long has he been living at that place? A It has been ever since, went up there in '67, seems like as near as I can remember.
- Q Were you up there at that time to know that he went there in 1867? A I passed through there from up there on Grand River as I be going to the Lynch settlement. We boys used to go up there to work.
- Q You didn't pass his house going to the Lynch settlement from Fort Gibson did you? A No sir, I was going to the State to work.
- Q How many years has Tucker lived in the state since the war? A I don't know of him living in the State only what little time he go to town when he was trading.
- Q He never came back to Fort Gibson after the close of the war? A Yes sir, my mother saw him there.
- Q Do you know of your own knowledge? A I am just going what my mother told me.
- Q I am asking you what you know yourself? A I saw him on Grand River.
- Q You moved from Fort Gibson up there? A Yes sir, early in the spring, in April.
- Q You hadn't seen Tucker in Fort Gibson before you moved away from there? A No sir, I hadn't.
- Q And you didn't see him until after Bunk Markham opened his store up there? A Yes sir, he was running the store there then.
- Q And since that time you have been seeing William Tucker upon Big Cabin near the Kansas line? A Yes sir.
- Q You live where? A Up here on Gooseneck on Cedar Creek.

ON BEHALF OF THE COMMISSIONER:

- Q About how old are you? A I am 50 some odd I don't know exactly 53 or 54.
- Q You stated that you know the applicant, William Tucker, before the war? A Yes sir, I did.
- Q Do you remember seeing him before the war? A I guess I have.
- Q Do you remember? A Yes sir.
- Q About how old were you then? A I don't know just exactly I was a slave, I was raised up like a hog, they didn't tell us our ages, I was a great big boy, I drove teams during the war.
- Q Are you a Cherokee freedman yourself? A Yes sir.
- Q Is your wife living now? A Yes sir.
- Q Her name is Sarah? A Yes sir.
- Q Are your children Clara, Clarence, Carrie, and Cora all living? A Yes sir.

BY LOUIS T. BROWN:

- Q Does your name appear upon the Authenticated roll of 1860? A Yes sir.

WITNESS EXCUSED.

COLUMBUS McNAIR, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Columbus McNair.
Q Your post office address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear on the Authenticated roll of 1880? A Yes sir.
Q Do you know the applicant, William Tucker? A Yes sir.
Q About how long have you known him? A I have known him ever since about the commencement of the war.
Q When did you see him for the first time after the war? A The first time I ever saw him after the war was along about in November, '66.
Q Where? A In Fort Gibson.
Q In the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q What was that when you saw him after the war? A I saw him in November '66.
Q Where? A Fort Gibson.
Q How old was he then? A I don't know anything about his age.
Q How old were you? A I guess I must have been about 16 or 17.
Q How old are you now? A I am 55, next birth day 56.
Q How long had you known William Tucker then, before you saw him at Fort Gibson? A When I first got acquainted with him it was at Webbers Falls along about the commencement of the war.
Q How old were you when the war commenced? A I was 11 years old.
Q You saw him at Fort Gibson in November, 1866? A Yes sir.
Q How many did you see there at that time? A I don't know.
Q Did you see a whole host of people there in '66? A I saw lots of them, I saw lots of soldiers there.
Q About how many cases have you testified in? A Not a great many that I know of.
Q How many different places were you in November, 1866, and saw people? A I come right on down from Sequoyah District and come up there in November and stopped there with Joe Kell and went on from there to Cabin Creek.
Q How long were you with William Tucker there at port Gibson at the time you saw him? A I never saw him there only about one day.
Q You saw him about one day? A Yes sir.
Q You had seen him once or twice before the war? A Yes sir, he was over frequently around the place there.
Q Did he live near Webbers Falls before the war? A No sir, he was over there at Bill Holts.
Q Where were you? A I stayed right over there close to Bill Holts at McDaniels.
Q You were a small boy? A Yes sir.
Q And Tucker was a grown man? A Yes sir.
Q And you just met him at Fort Gibson and recognized him as being the same man? A No sir, he made himself known to me and I remembered who he was.
Q Tucker recognized you as being the boy he had seen? A Yes sir.
Q And he made himself known to you? A Yes sir.
Q When did you think of that first after you went away from there that you had met Tucker there at Fort Gibson? A Yes sir, I have seen him frequently since.
Q Have you testified in this case before? A No sir.
Q And he has been an applicant for citizenship for the last 25 years? A I don't know that.
~~Q You know that he has not been a recognized citizen?~~
Q You know that he has not been a recognized citizen? A I couldn't say that, I don't know.

- Q When he come to get you to testify he told you he had not been recognized? A Well I don't know Mr. Davenport.
- Q You are the same Columbus McNair that has testified in many cases? A Yes sir.
- Q There is no other colored man living by the name of Columbus McNair that knows as many freedmen, colored persons, as you? A I don't know of any Mr. Davenport.

BY LOUIS T. BROWN:

- Q In addition to the freedmen cases you have testified in on part of the applicant, you have also testified on behalf of the Cherokee Nation in several cases? A In some cases, yes.
- Q When the Commission to the Five Civilized Tribes commenced to make a roll of freedmen you were in their employ were you not? A Yes sir.
- Q And you were used as a witness in several cases? A In some cases I was, yes.

BY MR. DAVENPORT:

- Q Tell me one of the cases you have testified in for the Cherokee Nation? A Well of course I can't think of them.
- Q Well I want to know? A I know there was some cases they called me on for the Cherokee Nation, of course I was satisfied the people were not citizens.
- Q You can't remember a single case you were called? A Yes sir, I can remember some of them.

W I T N E S S E X C U S E D .

Mr. Davenport: The representative of the Cherokee Nation ask that the case be continued until February 8, 1906, to enable them to get testimony to rebut the testimony of Jerry Foster and Columbus McNair to the new matters brought out today in regard to the return of the applicant.

Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to give the Cherokee Nation an opportunity to show that when L. D. Daniels and Luster Foreman testified that the applicant returned within the time prescribed by the Treaty of 1866 that they testified falsely; that no new testimony has been introduced; that the Cherokee Nation knows that the only points involved in this case is as to whether or not the applicant, William Tucker, returned to the Cherokee nation prior to February 11, 1867; that they knew of this matter and certainly knew at that time that we would rebut any testimony tending to disprove that fact.

Mr. Davenport: The representative of the Cherokee Nation have not undertaken to rebut any testimony today tending to prove the fact relating to the return of the applicant, but the applicant has offered in testimony by new witnesses upon that point which was not set down for hearing, and the representative of the Cherokee Nation so stated that the time it was offered that if it was offered they would ask time to look the matter up and offer testimony if it could be secured to contradict the testimony offered by the applicant today upon the question of the applicant's return.

Louis T. Brown: The applicant desires to state that this application was made on May 16, 1901, and that the Cherokee Nation knew at that time that the applicant would contend that he was a slave of a citizen of the Cherokee Nation during the war and that he returned within the time required by law, and they have had since that time to introduce testimony tending to disprove that fact and that the only contention they have made is that the evidence of L. D. Daniels and Luster Foreman could not be believed, to which we have answered today, and certainly objects to this case being allowed to stand open until at a time when they can search the country and the states and possibly secure some testimony that might tend to prove that the applicant did not return within time.

On Behalf of the Commissioner: The motion of the representative of the Cherokee Nation will be granted and the case continued until February 8, 1906, at nine o'clock A. M.

Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 30th day of January, 1906.

Myron White
Notary Public.

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TO THE HONORABLE SECRETARY OF THE
NAVY
WASHINGTON, D. C.

FROM THE HONORABLE SECRETARY OF THE
NAVY

RECEIVED

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[Signature]
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COMMUNICATIONS

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Cherokee Freedman D 329
" " D 330
" " D 739

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 8, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application f
for the enrollment of WILLIAM TUCKER BY AL^{Cherokee} Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee nation, James S. Ravenport.

The hearing of this case was continued from January 25,
1906, upon motion of Attorney for the Cherokee Nation, until
February 8, 1906, at which time the following proceedings
were had.

J. H. MCGHEE, being first duly sworn, testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A J. H. McGhee.
Q What is your post office? A Kinnison, I. T.
Q What is your age? A I am 47, going on 48.
Q How long have you lived in the Cherokee Nation? A I was born in
the Cherokee nation, and I went out a little while time of the
war, and come back here in 1868.
Q When you came back to the Cherokee Nation in 1868, what part of
the Cherokee nation did you locate in? A Upon Big Cabin about
20 miles above Vinita.
Q Do you know a colored man named William Tucker who lives up
there? A Yes sir.
Q How long have you known him? A To the best of my recollection,
he came there in the fall of 1868.
Q Was he there when you returned? A No sir, I come in the spring.
Q How far did he locate from where you are living? A About two
miles from where I live.
Q Where has he lived since that time? A Ever since I knew him to
come there.
Q Have you lived at or near the place since that time? A Yes sir.
Q You came as I understand you on Big Cabin in the spring of 1868?
A Yes sir.
Q And sometime after that William Tucker came into the locality
and located in about two miles of where you have lived? A Yes
sir.
Q And you and he have lived there that distance apart since that?
A Yes sir.
Q You didn't know William Tucker before the war? A No sir, not
until he come there.

BY LOUIS T. BROWN:

- Q Were you in the neighborhood of where you now live before William
Tucker? Who came to that neighborhood first, you or William
Tucker? A I come with my uncle, I came in the spring and to the
best of my knowledge he came in the fall or winter.

Q Do you know where he came from? A No sir.
Q You knew nothing then of his whereabouts until after 1868?
A No sir.

W I T N E S S E X C U S E D .

Mr. Davenport: The representative of the Cherokee Nation most humble move the Commission to continue this case until March 8, 1906, on the ground of newly discovered evidence which they were not in possession of and could not learn of until the 7th of February, 1906. They believe they believe they can show by the newly discovered evidence that the principal applicant in this case did not return to the Cherokee Nation until the fall of 1868. They further state in their motion that this is not made for delay but in order to secure the facts, if possible, and that the information upon which they base their motion is information obtained from the witness who is present today from other parties in conversation after he had been subpoenaed as a witness.

By Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to impeach the reputation of L. D. Daniels and Luster Foreman, and for the further reason that this application was made on the 16th day of May, 1901, and that the Cherokee Nation has had since that time to secure testimony tending to disprove the right of the applicant to be enrolled as a Cherokee freedman; that the case was continued on the 25th day of January, 1906, until this day and the Cherokee Nation was given an opportunity, and has had since that time to get the testimony that they now say they can produce.

On Behalf of the Commissioner: On account of the character of the testimony offered in rebuttal by the applicants on January 25, 1906, and in order that the present hearing before this office may be a finality in this case, the motion of the Attorney for the Cherokee Nation will be granted, and the case continued until Thursday, March 8, 1906, at nine o'clock A. M.

By Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 9th day of February, 1906.

Myron White

Notary Public.

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COMMISSIONER TO THE FIVE CIVILIZED TRIBES

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COMMISSIONER

Cherokee Freedmen D 329, 330, and 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., APRIL 4, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicant, Louis T. Brown.

For Cherokee Nation, L. B. Bell and J. S. Davenport.

ON BEHALF OF THE COMMISSIONER:

The records of this office show that on February 8, 1906, this case was continued, on motion of the Attorneys for the Cherokee nation, until March 8, 1906; that on February 27, 1906, on motion of the Commissioner to the Five Civilized Tribes, the case was continued to March 29, 1906, of which ~~application~~ action the applicants, their attorney, and the attorneys for the Cherokee Nation were advised on February 27, 1906, and that on March 21, 1906, by agreement between the attorney for applicant and the attorneys for the Cherokee nation, the case was continued from March 29 to April 4, 1906, at Vinita, Indian Territory.

On this April 4, 1906, the case being called, and the Cherokee nation announcing that it has no testimony to introduce, the following proceedings were had in behalf of applicants.

JULY MARTIN, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

Q What is your name? A July Martin.

Q What is your age? A About 44.

Q Post office? A Chelsea.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Were you a slave? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir, I knew him.

Q About how long have you known him? A I have known him ever since I was a boy, ever since I can recollect.

Q Did you know him during the war? A He sir.

Q When and where did you first become acquainted with William Tucker? A He came to our house down on Grand River when we lived on Grand River, came down there in the fall of '66, as near as I can recollect, and camped there about three weeks and left and went on down below us, said he was coming down about Tahlequah.

Q When did you return to the Cherokee Nation? A In the spring of '66.

Q And it was the fall of the same year that you saw the applicant?

A Yes sir.

Q When did you next see him? A It must have been about two or three years when he came on back moving upon Cabin where he lives now.

Q Is that in the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q You are 44 years old now I believe you say? A Yes sir.
- Q How how old were you in 1866? A I don't know how old, when we come down here I was big enough to -----
- Q Well about how old were you? A I don't have no idea how old I was.
- Q You were about 4 years old, weren't you July? A I don't know whether I was or not.
- Q Had you ever seen William Tucker before the time you saw him down there on Grand River? A If I did, I don't know it.
- Q Whom were you living with? A My father.
- Q What is his name? A Aaron Martin.
- Q What time of the year was it you saw William Tucker down there? A I don't know just exactly, it was in the fall.
- Q Give me some reason for knowing it was in the fall? A Well we had done laid by corn, and it was along after that when he come to our house.
- Q Had you helped cultivate a crop that year? A Yes sir.
- Q And you were done laying by corn? A Yes sir.
- Q Did you have any roasting ears? A Yes sir/
- Q The corn was still in roasting ears? A Yes sir.
- Q Had you begun picking cotton? A Hadn't commenced raising raising cotton then.
- Q Had you had any frost? A I don't recollect whether there was any frost or not.
- Q How much of a corn crop had you made that year? A I don't know how much.
- Q You helped work it? A Yes sir.
- Q Can't you remember how much you cultivated that year? A No sir.
- Q Can't you remember how much your father cultivated? A No sir, we never had many acres, just put in a little piece.
- Q On whose place did you make the corn in 1866? A Arley Hicks' place.
- Q What side of Grand River was this side located? A It was on the west, end of Lynch's Prairie.
- Q That was there between Grand River then and Lynch's Prairie?
- A It was right in the edge of Lynch Prairie and right close to the river bottom.
- Q I say it was right in the end of the Prairie and the edge of the bottom? A I say it was right close to the river bottom.
- Q What post office is that near now? A I don't know what post-office is near there now, I haven't been down there for a good while.
- Q Hicks' farm is where you saw William Tucker? A Yes sir.
- Q Who all were with him at that time? A Joe was with him, and Steve Vann was with him. Joe Davis was with him, and I believe there were two girls with him.
- Q Well they had how many wagons? A One wagon I think was all.
- Q You know don't you? A Well there was two wagons with Uncle Joe Rogers'.
- Q Have you ever testified in this case before? A No sir.
- Q When did you first tell William Tucker that you remember seeing him down there in 1866 on Grand River? A I never told him, he come and asked me if I recollect seeing him.
- Q Well when was that? A That was yesterday.
- Q Now you haven't talked with any one about having seen him down there on Grand River in 1866 until yesterday? A No sir.
- Q And he come and talked with you, and you remember seeing him down there in 1866, 40 years ago? A Yes sir.
- Q And you remember all about it? A Yes sir, I remember all about it.

- Q Is your father living or dead? A He is dead.
- Q Any of the rest of your family living that is living down there now? A Just Aunt Sarah Ann, one of my aunts.
- Q You don't know where he went? A He sir.
- Q You didn't see him any more for two or three years? A Two or three years, yes sir, and he come on back by our place.
- Q Can you remember whether you were out of the Indian Territory during the war or not? A Yes sir.
- Q Did you go north or south? A Went north.
- Q When did you say you returned? A In the spring of '66.
- Q What time in the spring? A I don't know exactly what time it was.
- Q Well was the leaves put out or grass begin to grow when you came? A Yes sir.
- Q Had they commenced planting crops around anywhere? A Yes sir.
- Q Now whose place did you pass that you saw them planting crops as you came back? A I don't know whose place.
- Q Well you remember seeing William Tucker? A Yes sir, I remember seeing him but I don't remember everybody's place I passed.
- Q Give me some one? A Well I don't know.
- Q Can't you remember a single one who was planting crops that you passed as you came down? A No sir.
- Q How did it happen that you came down in the spring of 1866? A I don't know.
- Q You come down for the purpose of establishing your right in the Cherokee Nation under the Treaty? A I never did know nothing about that Treaty.
- Q Not in your life? A Not until here recently.
- Q You were not an applicant before the Wallace roll as a Cherokee freedman? A Yes sir.
- Q July what year was the Wallace roll made? A I don't know.
- Q What year was the Kern-Clifton roll made? A I don't know that.
- Q What year was the Dixon payment? A I don't know that.
- Q Were you living in the Territory then? A Yes sir.
- Q It has been a very much shorter time since the Wallace roll was made than 1866, hasn't it? A Yes sir.
- Q And it has been a much shorter time since the Kern-Clifton roll was made than 1866, hasn't it? A Yes sir.
- Q Why is it you can't remember those years the same as the year you saw William Tucker? A They always said it was '66.
- Q Do you mean to tell this Commission that in your application for enrollment you stated that you and your father came back in the spring of 1866? A Yes sir.
- Q You are positive of that fact? A Yes sir.
- Q Now I will ask you if it is a fact that your father had returned to the Cherokee Nation, planted, cultivated and had a crop of corn in roastingear before you saw William Tucker in the Cherokee Nation? A Yes sir.
- Q Your father had returned and you with him to the Cherokee nation, had planted a crop and cultivated it and it was in roastingear in other words it was in the fall following the spring he had planted the crop when you ~~saw~~ claim to have see William Tucker? A Yes sir, we made a crop before I saw William Tucker.
- Q Which one of the Steve Vanns was with William Tucker when he come back? A This colored fellow around here in town they call Steve Vann.
- Q The one that lives around somewhere here in the neighborhood of Bluejacket or Vinita now? A Yes sir.

W I T N E S S E X C U S E D .

DANIEL SANDERS, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Daniel Sanders.
Q Your age? A 61 going on 62. I was born in 1844.
Q Your post office? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant, William Tucker? A Known him ever since I could talk.
Q Was he a slave? A He was.
Q When did you return to the Cherokee Nation after the close of the war? A In 1866.
Q After your return did you see the applicant, William Tucker?
A Yes sir, I did.
Q When and where was the first time you saw him? A I saw him down there on Spring Creek.
Q When was that? A That was along in May, 1867.
Q What were you doing on Spring Creek, 1867? A I come from Fort Gibson up there to,--what was that Ross name---Henry Ross, and come over there and stopped in that neighborhood there.
Q You had known the applicant prior to that time? A Yes sir.
Q Recognized him when you saw him? A Well I don't know about that, he was there, had in a crop.
Q Well I say you recognized him? A Yes sir, I recognized him.
Q Has he resided in the Cherokee Nation ever since you saw him on Spring Creek in 1866? A Ever since so far as I know.
Q You have seen him from time to time in the Cherokee Nation?
A Yes sir.

BY MR. DAVENPORT:

- Q You don't know anything about when he returned to the Cherokee Nation of your own knowledge? A Well I don't know just exactly the date.
Q The first time you ever saw him in the Cherokee Nation after the war was in May 1867? A May, 1867.

W I T N E S S E X C U S E D .

JULY MARTIN RECALLED:

BY MR. DAVENPORT:

- Q How many crops did you make on the Hicks place after you came back? A We made one.

W I T N E S S E X C U S E D .

JOE DAVIS, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Joe Davis.
Q Your age? A 51.
Q Your post office? A Vinita.
Q Were you present when July Martin and Daniel Sanders gave their testimony in this case? A Yes sir.

ON BEHALF OF THE COMMISSIONER TO MR. DAVENPORT:

Q Do you desire to object to the introduction of the testimony of this witness on the ground that the rule in force with reference to witnesses who were going to testify leaving the room when the other witnesses were examined?

MR. DAVENPORT:

We object for the reason that the witness had an opportunity to hear the other testimony.

ON BEHALF OF THE COMMISSIONER:

The testimony of the witness will be taken at this time, and the regularity of the taking of the same will be passed on.

BY LOUIS T. BROWN of witness:

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir.

Q How long have you known him? A All my life.

Q Do you know when the applicant returned to the Cherokee Nation after the close of the Civil war? A Yes sir.

Q When? A In the fall of '66.

Q Has he had a continuance residence in the Cherokee Nation since that date? A He has sir.

BY MR. DAVENPORT:

Q You say you know when he returned Joe? A Yes sir.

Q Where did he go during the war? A I don't know, I think he went north, he went up in Kansas somewhere.

Q You say you knew him all your life? A All except about two or three years during the war.

Q Where were you and he during the war? A I was in the Cherokee Nation during the war.

Q And the war closed, where were you? A At Fort Gibson.

Q In 1866 where were you? A At Fort Gibson part of the time and part of the time on Spring Creek.

Q It is not a fact as stated by July Martin that you returned with him to the Cherokee Nation? A It is a fact that I went up there and he done returned, and probably had been here a month or two. He had been down to Gibson gathering up us children.

Q Are you related to him? A His brother is my brother. My mother died when I was small, and old man Tucker raised me, my rights based on his rights.

Q Now with whom were you living at Fort Gibson when William Tucker came and got you? A With Uncle Fred Davis and Julie Martin.

Q What Cherokee or colored people or white people lived near you? A I couldn't say, couldn't tell you, there was lots of them. I knowed pretty near everybody down there.

Q Where were you and Tucker going when you came from Fort Gibson up to where Martin was living? A We were coming up to Uncle Fred Martin's, I think, hunting a daughter of his.

Q You knew where you were going? A Well I think so, it has been a long time.

Q You say you came up there in the fall of the year? A Yes sir, I think it was.

Q And they had made a crop, Aaron Martin's folks had when you got up there? A Yes sir, I think they had.

Q Well you can remember what time of the year it was? A Yes sir, it was sometime in the fall.

Q Couldn't you tell whether they had a crop growing or whether they were gathering crops? A No sir, I don't.

Q You remember you were up there with Tucker? A I do.

- Q You don't know whether they were gathering corn or picking cotton?
A I knew they were not gathering corn and they were not picking cotton.
Q Was it hot weather or cold weather? A It was getting along in the fall.
Q Was it cold enough to have an overcoat? A No sir, we didn't have no overcoats in this country them days.
Q Tucker had teams and wagons? A Yes sir, had a span of little old ponies and two or three other ponies he fetched down from Kansas with him when he came.
Q Do you know what point he came from Kansas? A I think he had been up around Manhattan.
Q Did he tell you this? A No sir, he told me since.
Q Did he tell you whether he ever lived any other place in Kansas?
A I think he was up about Fort Scott.
Q Did he tell you that? A I don't know whether he did or not.
Q You don't mean to say he come and got you and raised you and didn't tell you where he was in Kansas? A He said he was at Manhattan.
Q And Fort Scott? A Yes sir, I think he did.
Q Did he say anything about being at Mapleton? A Yes sir, I believe he did.
Q Did he say anything about being at Burlington? A Yes sir, I think he did.
Q As a matter of fact he did tell you he lived in and around Burlington during the war? A No sir, I don't know whether he did or not.

W I T N E S S E X C U S E D .

Mr. Davenport:

The representatives of the Cherokee Nation move that the case be continued for further hearing at Muskogee, Indian Territory, April 12, 1906, in order that the nation may be able to put in rebuttal testimony against the testimony introduced today by the applicant of July Martin and others, it being testimony introduced that they could not anticipate, and that they are not now in a position to produce it today.

Louis T. Brown:

The applicant desires to state that this case was remanded for the purpose of giving the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, that the record shows several weeks ago they introduced several witnesses along that line, and that this case has been continued twice since then on motion of the Attorneys for the Cherokee Nation, and the applicant now objects to it being continued again. That the Cherokee Nation knew that the time the original application was made the applicant would contend that he was a slave of a citizen of the Cherokee Nation and that he returned to the Nation within the time prescribed by the Treaty; that they have had since that time to secure testimony tending to disprove that fact, and I desire to further state that it is my understanding when this case was sent up here that it would be closed today, and for those reasons I certainly object to the case being left open and insist that it be closed today.

Mr. Davenport:

If the applicants had confined themselves to the proposition of the impeachment testimony for which this case was remanded, and had not today brought in testimony upon the original question, the Cherokee nation would have been in a position to have closed today, and would have been ready to have closed, but instead of doing so today they introduced testimony upon the original question of the return of the applicant, upon which the Cherokee nation had made no preparation, thinking that question was closed.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for the applicant will be noted and the motion of the Attorney for the Cherokee nation for continuance will be granted.

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Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 6th day of April, 1906.

B. P. Rasmus
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., APRIL 12, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee Nation, J. S. Davenport.

It appears from the records of this office that the hearing in this case was continued from April 4, 1906, until April 12, 1906, on motion of the representatives of the Cherokee nation, at which time the following proceedings were had.

MR. DAVENPORT:

I want to introduce the testimony, in the William Tucker case, of Aaron Martin in his application, D 235, also of Andy Frye and Filmore Hicks, for the purpose of contradicting the testimony given by July Martin and others at the last hearing, as to when William Tucker was at Aaron Martin's house, it being testified at that time by July Martin that they had returned and made a crop and the corn was in roastingear. This testimony offered shows when Aaron Martin returned.

The representatives of the Cherokee Nation also desire to introduce the testimony of July Martin taken in his own application for enrollment, Freedman D 348, for the purpose of contradicting his testimony given in the case now being heard. I desire also to introduce the testimony of Allen Lynch for the purpose of contradicting himself.

LOUIS T. BROWN:

The applicants object to the introduction of the testimony of Aaron Martin for the reason that Aaron Martin has never been called as a witness in this case, and the applicant has not had the opportunity to cross examine him in his own behalf. The applicant objects to the testimony of Filmore Hicks, Andy Frye and Allen Lynch being made a part of the record in this case for the reason that the three last named persons are living and could appear before the Commissioner in person and give their testimony, at which time the applicant would have an opportunity to cross examine them in his behalf. That when the Commissioner sat at Vinita April 4, 1906, Allen Lynch was present at that time and testified in another case and the Cherokee Nation could have taken his testimony at that time relative to this matter.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for applicants will be noted, and the request of the Attorneys for the Cherokee Nation will be complied with and the testimony considered for what it is worth.

The Attorneys for applicants and Cherokee Nation announce that they have no further testimony to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 14th day of April, 1906.

D. P. Rasmus
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FREE CIVILIZED TRIBES.
VINITA, I. T., MAY 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee freedmen, he being sworn and examined by Commissioner T. B. Needles testified as follows:

- Q What is your name? A Aaron Martin.
Q How old are you Aaron? A I guess about 67 or 68
Q What is your post office address? A Chelsea.
Q What district do you live in? A Coowasegoosawee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

- Q Did you receive your money known as the Cherokee Strip money?
A Yes sir.

The Kerns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

- Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks, and Andrew Frey.

Aaron Martin--2.

- W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
- Q Are you a blacksmith? A No sir.
- Q Another Martin is a blacksmith? A Yes sir.
- Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
- Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
- Q About what time did you come down to the Cherokee Nation after the war--what time in '66? A It was some time in the fall.
- Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:

- Q Is your name Andrew Frey? A Yes sir.
- Q How old are you? A 66.
- Q What is your post office? A Vinita.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q Freedman? A Yes sir.
- Q Do you know Aaron Martin? A Yes sir.
- Q How long have you known him? A Why, I don't know, sir, just exactly how long, ever since we were boys.
- Q Was he a slave? A Yes sir.
- Q To whom did he belong? A He belonged to John Martin.
- Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
- Q Where? A He was over here across the river part of the year 1866.
- Q In the Cherokee nation? A Yes sir.
- Q Did he go out of the Cherokee Nation during the war? A Yes sir.
- Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
- Q Did he return? A Yes sir.
- Q In what year? A In '66.
- Q Are you any relation to him? A No sir.
- Q Was he married at that time? A Yes sir.
- Q Was his family with him? A Yes sir.
- Q Did his family return with him? A Yes sir.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A I belonged to Mary Clark.
- Q Were you in Kansas with Aaron Martin? A Yes sir.
- Q Did you return with him? A Yes sir.
- Q Have you known Aaron Martin well since that time? A Yes sir.
- Q Has he lived in the Cherokee nation since? A Yes sir.

- W. W. Hastings: You say he come back with you? A Yes sir.
- Q Who else come along? A There were lots of others, I don't recollect now who all came along; there was a big crowd of us.
- Q Well, name some of the rest of them? A Peter Williams.
- Q Anybody else? A Tobe Ser'maher, Jake Martin's family.
- Q Anybody else? A I don't know how else.
- Q That is all you can remember? A Yes sir.
- Q What time in the year did he come back? A He come back--we got back over to Dr. Thompson's place the 3rd of October, '66.
- Q Any colored folks there when you got there? A No one at all.
- Q You are positive about that are you? A Yes sir, no one at all there.
- Q That was in October, '66? A Yes sir.
- L. R. Bell: Who got back there first, you or Judge Daniels family?
- A No.

Aaron Martin--3.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

- Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your post office address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
V. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner: Did you draw money for Frances and Neely? A Yes sir.
of Applicant.

The Kerns Clifton roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:

Page 23, No. 568, Frances Adams, Delaware District.

Page 23, No. 569, Nealey Adams, Delaware District.

Aaron Martin--4.

- Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rethenberger.

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) M. D. Green
Notary Public.

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that same is a full true and correct copy of the original transcript.

(Signed) Lucy M. Bowman.

Subscribed and sworn to before me this 10th day of March, 1906.

(Signed) Chas. E. Webster
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy, and that same is, in part, a correct copy of ~~the~~ a copy of the original transcript.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Rasmus
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

Cher.F.D.-348.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 23, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of JULY MARTIN, ET AL., as Cherokee freedmen.

Appearances:

W. W. Hastings and L. B. Bell, Attorneys for Cherokee Nation.

Witnesses placed under the rule.

JULY MARTIN, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: State your name? A July Martin.
Q How old are you? A I guess I must be about forty-two, I reckon, or forty-three. I don't know for certain.
Q Were you born before the commencement of the war?
Q Yes sir, that is what they said I was.
Q What is your post office? A Chelsea.
Q Who was your father? A Aaron Martin.
Q Give me the name of your mother? A Queen Martin.
Q Were you the slave of a Cherokee citizen at the commencement of the war? A Yes sir.
Q Who did you belong to? A Belonged to John Martin.
Q He was a Cherokee citizen, was he? A Yes sir.
Q Were you taken out of the Cherokee nation during the rebellion?
A Yes sir.
Q Where did you go? A Went to Kansas.
Q When did you come back? A They said it was in '66, ~~and~~ Of course I don't know anything about when it was, I was too small to know anything about it when we came back. Father brought me back with him when he came.
Q You don't remember anything about it yourself? A No sir.
Q Where were you living when you first remember? A Was living on what they call the Cap. Hicks place.
Q In what Nation? A Cherokee Nation.
Q Have you lived in the Cherokee Nation ever since you can remember?
A Yes sir.
Q You applied for your wife and your children, Queen, Carrie, Annie, Wesley and Betsy? A Yes sir.
Q Are they all still living? A Yes sir, they are all still living.
Q But your wife is dead? A Yes sir, she is dead.

AL. LYNCH, being first duly sworn, testified as follows on behalf of applicants:

BY COMMISSION: What is your name? A Al Lynch.
Q How old are you? A Sixty-three years old.
Q What is your post office? A Vinita.
Q Do you know July Martin? A Yes sir.
Q Who was his father? A Aaron Martin.
Q Give me the name of his mother? A Queen Martin.
Q Did you know Aaron Martin before the war? A Yes sir.
Q Did you know Queen Martin before the war? A Yes sir.
Q Were they both slaves of Cherokee citizens? A Yes sir.
Q Was July Martin born in slavery? A Yes sir.

Q Who did he belong to? A He belonged to - his mother belonged to Eliza Wright, and she went from Eliza Wright to John Martin, I don't know whether he owned them, or how it was, but he belonged to that outfit, that family.

Q Who did Aaron Martin belong to before the war? A John Martin.

Q Did Queen Martin belong to the same man or somebody else?

A Eliza Wright raised her. She was born and raised on Eliza Wright's place, and after Aaron Martin married her, John Martin got her. They lived there together.

Q Was Eliza Wright a Cherokee citizen? A Yes sir, John Martin's sister.

Q Did Aaron Martin and Queen Martin begin living together before the war? A Yes sir.

Q Was John Martin a Cherokee citizen? A Yes sir.

Q When did you know when July Martin came back after the war? A He came back with Aaron Martin in the summer or fall of '66, down there on Grand River.

Q Who else came with him besides Aaron Martin's father? Who else came with July Martin besides his father? A Andy Frye here, and old man Squire Martin, Squire Adair, old Peter Williams, Tebe Schrimsher, and Jake Martin's family. Jake didn't come himself, but his family came.

Q Did Queen Martin come at the same time? A Yes sir.

Q Where did you first see July Martin after the war? A The first time I saw him was down here on Grand River on the Jake Thompson place.

Q What Nation? A Cherokee Nation.

Q What district was that in? A Delaware District.

Q You think that was in '66? A I know it was.

Q What time of the year? A It was along the latter part of August or the first of October, something along there, I don't just remember exactly.

Q How long did July Martin and his parents live there at that time?

A They stayed there all that winter and the next spring. I don't know whether they stayed all winter, part of the winter anyway, and the next spring they moved over on the edge of Lynch's Prairie, on a place they used to call the Tucker place. I don't know how long they stayed there, but when he moved from there he moved over on Pryor Creek. He stayed there two or three years, I don't remember.

Q Were you living around in that part of the country at that time?

A Yes sir.

Q Who else was living there when July Martin and Aaron Martin came down? A There was --

Q What other colored people? A There was me and Crap and Arch, Simon, Art Williams, Rowe, and Nelson Moore down here, I believe that's all.

Q You say Crap, you mean Anderson Lynch? A Yes sir, and Mose Whitmire.

Q All those people were living around there when July Martin came back? A Around in that neighborhood.

Q How long has July Martin lived in the Cherokee Nation since that time? A He has been here all the time as I know of. If he has been out I never knowed it.

MR. HASTINGS: How old was he when he came back? A Well sir, I can't tell you just how old he was. He was small.

Q Was he born before the war or during the war? A He was born before the war. If I don't make a mistake now, I think he was born on old man Knight's place, with Bob Knight's father, she was hiding up there, either born there or born at John Martin's, I am not quite sure.

Q They came back in a wagon? A Yes sir, they came back in a wagon.
Q Do you remember whether it was July or August they came back?
A It was in October or July, I couldn't tell you exactly the month.
Q There is August and September now, in between those two months?
A Somewheres along that time, it hadn't got cold weather yet.
Q Are they related to you in any way? A No sir, no relation of mine.
Q How far did they settle from you? A I was living on that place there that George Clark had, it is about three miles and a half or four miles from where they went to settle. They moved into Dr. Thompson's house, and after they moved over there I left that old place, left the woman on the George Clark place, and went over there and stayed with them right in the house with them.
Q Where did July marry? A I don't know sir, about that.
Q Did he marry in that neighborhood down there? A No sir, out west somewheres, I don't know nothing about his marriage. I don't whether he has got a wife.

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Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Wm. Hutchinson.

Subscribed and sworn to before me this 26th day of October, 1905.

(Signed) Charles H. Sawyer.
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy from the original thereof, and that the same is, in part, a true and correct copy of the same.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1906.

D. P. Rasmus
Notary Public.

MOTION FOR REHEARING

THE MATTER OF THE APPLICATION FOR
THE ENROLLMENT OF
WILLIAM BANKS, IRENE BANKS & VIRGIE BANKS
AS EMERGENCY FREEDMEN.

SLACK & PATTEN,

ATTORNEYS FOR APPLICANTS,

VINITA, I. T.

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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Banks,
Irene Banks and Viddie Banks as Cherokee Freedmen.

MOTION FOR REHEARING.

Comes now the applicants and move that they be granted a re-hearing in this case in order that they be permitted to introduce testimony to show what property their Mother owned in the Cherokee Nation during the time she was absent therefrom and to show that she did not abjure her citizenship while she was away from the Cherokee Nation.

Affidavits in support of this Motion are hereto attached-- The affidavit of Irene Banks shows that she is really the person who is looking after the interests of the three applicants herein.

Glenn & Patten

ATTORNEYS FOR APPLICANTS.

A F F I D A V I T.

UNITED STATES OF AMERICA,)
 INDIAN TERRITORY (SS.
 NORTHERN DISTRICT)

IRENE BANKS, of lawful age, being first duly sworn, on her oath says that while she is not the principal applicant in this case, yet she has been looking after same and she makes this affidavit in support of a Motion for a rehearing in this case. I know that my Mother has owned a farm in the Cherokee Nation, Indian Territory ever since I was old enough to remember about said farm and we now have possession of the same farm that my Mother owned as far back as I can remember. This Motion for a rehearing is made in good faith and not for the purposes of ~~xxx~~ delay but in order that justice might be done. Being a poor Freedmen girl and uneducated in matters of law, I did not know that it was necessary to prove at the former trial of this case that my Mother owned her farm and cattle and other personal property in the Cherokee Nation during all of the time she was absent in the State of Kansas and for that reason the testimony upon that point was not produced, and further, I did not know at the former hearing of this case that I could procure the testimony of this witness. Wherefore, in behalf of my brother, William Banks, and my Sister, Virdie Banks, and myself, I request and earnestly pray that the Honorable Secretary remand this case to the Honorable Commissioner to the Five Civilized tribes and that we be given a rehearing in order that we have an opportunity to produce the testimony to show that while my Mother was in Kansas she ~~nt~~ owned a Home, a farm with valuable improvements on it, some cattle and personal property in the Cherokee Nation; that she owned said property during all the times she was absent; and that at no time did she abjure her citizenship in the Cherokee Nation, Indian Territory.

Irene Banks

Subscribed and sworn to before me this 2 day of July, 1906.

Oscar Strand

NOTARY PUBLIC

My commission expires Oct 10 1908

Welch
J. J.

A F F I D A V I T.

UNITED STATES OF AMERICA,)
 INDIAN TERRITORY (ss.
 NORTHERN DISTRICT)

On this day personally appeared before me, the undersigned, a United States Commissioner, duly commissioned and acting within and for the Northern District of the Indian Territory, JOE DAVIS, of lawful age, who being first duly sworn, on his oath deposes and says:

"My name is Joe Davis. My age is 51 years and my Post Office is Vinita, Indian Territory. I am acquainted with the applicants, William Banks, Irene Banks and Virdie Banks. They are the children of Mary Banks, whose maiden name was Mary Tucker, and the said Mary Tucker was the daughter of William Tucker who is an applicant for enrollment as a Cherokee Freedmen. I knew Mary Banks, the mother of these applicants, during the Civil War and knew her practically all of my life. I know that when she went out of the Cherokee Nation about 1874 that she at that time owned a farm and a home in the Cherokee Nation, Indian Territory located on Big Cabin Creek in Cooweescoowsee District of the Indian Territory. Mary Banks had about forty acres of land in cultivation and a house and other improvements on said place and all of said land was under fence together with a large pasture enclosed by a good fence, and during all of the time she was absent from the Cherokee Nation she had a tenant on said land and exercised the ownership and control thereof. She also left some cattle on said place and used her pasture as a ranch for her cattle, and she kept cattle on said farm during all the time she was in Kansas. After the death of Mary Banks, her children, William Banks, Irene Banks and Virdie Banks took charge of said farm and still own it."

Subscribed and sworn to before me this

Joe Davis
7th day of July, 1906.
[Signature]
NOTARY PUBLIC.

Commission Expires Dec. 4, 1909

My commission expires _____

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } ss.
NORTHERN DISTRICT. }

Proof of Service.

..... J. C. STARR of lawful age, being duly sworn, says that
he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered
containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered
to W. W. HASTINGS

at Muskogee, Indian Territory , as shown by the receipt of the postmaster
hereto attached. Which said postoffice is shown by the records of the Attorneys for the Cherokee Nation
to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this 13th day of July, 1906 ~~1907~~

My Com Exp Oct 17-1909

H. E. Ross

Notary Public.

673

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications for the enrollment of:

William Tucker.....	Cherokee Freedman D 329
Katie Adams, et al.....	Cherokee Freedmen D 330
Sarah Foster.....	Cherokee Freedman D 739
Malinda Beeson.....	Cherokee Freedman D 969

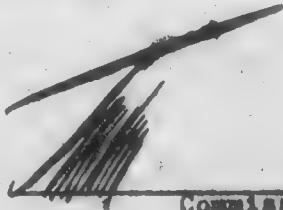
D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by William Tucker for, among others, himself, the others included in said application have heretofore been disposed of, and their rights to enrollment will not be considered in this decision; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Sarah Foster for, among others, herself, the others included in said application have been heretofore disposed of and their rights to enrollment will not be considered in this decision, and by Malinda Beeson for herself. The records further show that on June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered its decision herein, granting all of said applicants the right to enrollment as Cherokee freedmen, and that said decision was duly forwarded the Department for review and decision. Thereafter on December 16, 1905 (I.T.D.10922-05), the Department, in view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, remanded said case, insofar as it granted the applications for the enrollment of said persons as Cherokee freedmen, to this office for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce witnesses to impeach witnesses who had testified in behalf of the applicants. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, January 25 February 8 April 4 and April 12, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, William Tucker, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress

of said rebellion he left the Cherokee Nation, but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation, and has since continuously resided therein. The evidence further shows that all the other applicants herein are descendants, children and grandchildren of the said William Tucker, born since 1866, and continuously resided in the Cherokee Nation from the date of their births up to and including September 1, 1902.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), the decision of the Commission to the Five Civilized Tribes rendered on June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Walinda Beeson as Cherokee freedmen should be, and the same is, hereby, affirmed.



Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 23 1907

FID 329

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. William Tucker,
Welch, I. T.
Cherokee F-D-329.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

(COPY)

Tahlequah, Indian Territory, March 21, 1905.

Commission to the Five Civilized Tribes,
(Cherokee Enrollment Division),
Muskogee, Indian Territory.

Gentlemen:

I herewith return consolidated cases of

William Tucker, et al,	Cherokee	F. D-329,
Katie Adams, et al,	"	F. D-330,
Lucinda Whitmire,	"	F. D-352,
Sarah Foster,	"	F. D-739,
Malinda Beeson,	"	F. D-969.

The decision, as prepared, admits 12 of the applicants, denies 3 and one is dismissed because of death.

Upon examination I am of the opinion that all of them should be denied enrollment. As to the 12 who are granted, it will be observed that not one of them is upon either of the regular rolls of 1880 and 1896. The right of the 12, as indeed all of these applicants, is derived through the father, William Tucker. He is supported by two very questionable witnesses. One of them, L. D. Daniels, whose testimony I do not consider is entitled to much, if any, weight and who appeared to be simply a professional witness, clearly indicates that he identified Tucker solely upon ^(Tucker's) his own information. He say that he knew that Tucker was the man that he met in 1866 at Ft. Gibson because "he (Tucker) told me that he was the same man I met". As to the other witness, Lester

Commission--2.

Foreman, he is notoriously unreliable and the most casual perusal of the testimony must, in my opinion, reveal all the evidences of vagueness and unreliability. It will be observed that some of Tucker's children married people who were on the 1880 roll and who were undisputed as to their citizenship. In no instance, however, has any one of them been admitted with the other members of the family upon either that or the 1896 roll. These facts, to my mind, constitute clear and satisfactory evidence that none of these parties are entitled to enrollment.

I suggest that the cases be rewritten and that all of them be rejected upon the lines here stated. If the other Commissioners do not agree with me in this view, then I beg to vote in the negative and have the case referred to the Department for its decision.

I am not entirely clear, but I presume that a negative vote of this character should be considered in the nature of a protest or an appeal. I trust, however, that a careful examination of the testimony will lead to the same conclusion with the other Commissioners that I have formed. I see that none of the Commissioners have so far concurred in the decision as at present written.

Respectfully,

(Signed) C. R. Breckinridge.
Commissioner.

MH
Enc. H-25

(COPY) .

I have signed original decision--
witnesses for applicant have not been
impeached--and no effort on part of nation
either to impeach or rebut their tes-
timony----I believe Daniels told the truth-
no Freedman in the territory had better
mans of knowing these people than he-
-It is true that he was a witness for many
of them-he is an intelligent man-and in the
work of enrollment of Freedmen often swore
adverse to applicant-he was the dispenser
of government rations to these people-and
had an opportunity of knowing them-in all
testimony given by him-he appeared to have
a very clear recollection as to past events-

T. B. N-----

Cherokee Freedmen

D-329-352.

Muskogee, Indian Territory, June 28, 1906.

William Tucker,

Welch, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 23, 1906, granting, among others, the application for the enrollment of yourself, rejecting the application for the enrollment of your grand children, William, Irene and Virdie Banks, and dismissing the application for the enrollment of your daughter, Lucinda Whitnire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the application for your enrollment. There has heretofore been furnished your attorney, Louis T. Brown, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED).

Tame Dixie

Chairman,

Incl. 8-66
Register

COPY.

Cherokee Freedmen

D-329-739.

Muskogee, Indian Territory, June 28, 1905.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., and rejecting the application for the enrollment of William Banks, et al., as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the application for the enrollment of the said William Tucker, et al. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED).

Tamm Dixby.

Chairman.

Incl. S-71

Register

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, June 28, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitmire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

W. H. H. T. James Fixby.

Chairman.

Incl. 2-72

COPY.

Cherokee Freedmen
D-329, et al.

Wuskagee, Indian Territory, June 28, 1905.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al., as Cherokee freedmen, including the Commission's decision dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitnire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. 8-73

(SIGNED). *Tame Dixby.*
Chairman.

Through the

Commissioner of Indian Affairs.

Land
50928-1905

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. August 28, 1905

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 28, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and by Jerry Foster for his wife, Sarah Foster.

June 28, 1905, the Commission decided adversely to William, Irene and Virdie Banks and Lucinda Whitmire and favorably to all the other applicants.

The record shows that all of the applicants, except William Tucker, William, Irene and Virdie Banks were born since the beginning of the war of the rebellion and claim their rights to enrollment as Cherokee Freedmen by reason of being descendants of William Tucker, who at the beginning of the war was the slave of a Cherokee citizen; that during the war he removed to the State of Kansas but returned to the Cherokee Nation on or before

February 11, 1867, and has resided continuously in the nation up to and including September 1, 1902. All of the other applicants have resided continuously since birth up to and including September 1, 1902, except William, Irene and Virdie Banks and Lucinda Whitmire. William, Irene and Virdie Banks were born since 1866 and are the children of one Mary Banks who, at the beginning of the war of the rebellion was the slave of a Cherokee citizen and who, during the war continued to reside in the Cherokee Nation; that about the year 1874 Mary Banks removed to Kansas where she married a citizen of that state and continued to reside therein until the date of her death in 1894.

It is not shown that she at any time, possessed any property in the Cherokee nation. William, Irene and Virdie Banks were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their mother.

None of the applicants is identified on the 1880 authenticated Cherokee roll or the 1896 Cherokee Census roll.

The record further shows that Lucinda Whitmire died prior to September 1, 1902.

In view of the record the approval of the Commission's decision adverse to William, Irene and Virdie Banks and Lucinda Whitmire and favorable to all the other applicants is recommended.

Very respectfully

F. A. Leupp

H. I. X. (W)

Commissioner

J. F. Jr.
Y.P.
FHR

DEPARTMENT OF THE INTERIOR

D. C. 56716-1905
I.T.D.-10922-1905

WASHINGTON

December 16, 1905

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 28, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for enrollment as Cherokee freedmen, of William Tucker, for himself and his three minor grandchildren, William, Irene, and Virdie Banks; of Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordelia Adams; of Zeke Whitmire for his wife Lucinda Whitmire; and of Jerry Foster for his wife, Sarah Foster, including its decision of the same date, which was adverse to William, Irene and Virdie Banks, and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants.

Reporting August 26, 1905, the Indian Office recommends that the decision of the Commission be approved. A copy of its letter is inclosed.

It appears from the record that all of the applicants except William Tucker, and Mary Banks, deceased, mother of William,

Irene and Virdie Banks, were born since the beginning of the Civil war, and claim their rights to enrollment as Cherokee freedmen through William Tucker, the principal applicant. It is alleged that William Tucker was the slave of George Whitmire, a Cherokee citizen; that during the war he removed to Kansas, but returned to the Cherokee Nation on or before February 11, 1867, and has resided continuously in the Cherokee Nation up to and including September 1, 1902.

The Department believes that the Commission's decision in so far as it is adverse to the applicants, William, Irene and Virdie Banks, and to Lucinda Whitmire, is correct, and as to these applicants it is hereby affirmed.

It is shown by the record that William Tucker testified in his own behalf. He is supported by the testimony of J. D. Daniels and Lester Foreman. Commissioner Breckinridge questions the reliability of the testimony submitted by these witnesses.

In view of the opinion expressed by Mr. Breckinridge on this testimony, the Department considers it advisable to remand the case in order that the nation may have an opportunity to impeach these witnesses. The record is therefore returned herewith for a rehearing and a readjudication, except as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire.

You are requested to advise the principal applicants, informing them of the reason for this rehearing, and also to notify the nation.

Respectfully,

(Signed) THOS RYAN

First Assistant Secretary

2 inclosures .

Cherokee freedman
D 329 et al

COPY.

Muskogee, Indian Territory, January 6, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In connection with the Cherokee Freedmen enrollment case of William Tucker, et al., you are advised that this office is in receipt of Departmental letter of December 16, relative to the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, adverse to William, Irene and Virdie Banks and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants, and in which said decision is affirmed as to William, Irene and Virdie Banks and Lucinda Whitmire, and the case remanded to this office, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

You are, therefore, hereby notified that you will

be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, January 25, 1906, and introduce such testimony as you desire as to the reputation for truth and veracity of said L. D. Daniels and Lester Foreman. The principal applicants in these cases will also be permitted to appear on that date and introduce, in rebuttal, such testimony as they desire in these cases.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

SIGNED

Tanno Bixby.
Commissioner

LMB

Incl. B-5.

COPY:

Muskogee, Indian Territory, January 6, 1906

William Tucker,

Welch, Indian Territory.

Dear Sir:

In connection with your application for the enrollment of yourself and grandchildren, you are advised that this office is in receipt of Departmental letter of December 16, 1905, in which the decision of the Commission to the Five Civilized Tribes dated June 26, 1905, granting, Commissioner Breckinridge dissenting, among others, your application for enrollment as a Cherokee freedman, and rejecting, among others, your application for the enrollment of your grandchildren, William, Irene and Virdie Banks, as Cherokee freedmen, was affirmed as to your said grandchildren, and the decision as to yourself, among others, remanded to this office in order that the Cherokee Nation may have an opportunity to impeach L. D. Daniels and Lester Foreman who testified in your behalf.

Wm. Tucker-2

You are, therefore, hereby notified that the Cherokee Nation has this day been notified that it will be permitted to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday January 25, 1906, and introduce such testimony as it desires relative to the reliability of said L. D. Daniels and Lester Foreman. You will also be permitted to appear on that date and introduce in rebuttal such testimony as you may desire.

Respectfully,

RECEIVED

Register

Tanno Bixby.
Commissioner

LMR

Cherokee Freedmen
D 329

COPY.

Muskogee, Indian Territory, January 6, 1908

William Tucker,

Welch, Indian Territory.

Dear Sir:

In connection with your application for the enrollment of yourself and grandchildren, you are advised that this office is in receipt of Departmental letter of December 16, 1905, in which the decision of the Commission to the Five Civilized Tribes dated June 26, 1905, granting, Commissioner Breckinridge dissenting, among others, your application for enrollment as a Cherokee freedman, and rejecting, among others, your application for the enrollment of your grandchildren, William, Irene and Virdie Panks, as Cherokee freedmen, was affirmed as to your said grandchildren, and the decision as to yourself, among others, remanded to this office in order that the Cherokee Nation may have an opportunity to impeach L. D. Daniels and Lester Foreman who testified in your behalf.

Wm. Tucker-2

You are, therefore, hereby notified that the Cherokee Nation has this day been notified that it will be permitted to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday January 25, 1906, and introduce such testimony as it desires relative to the reliability of said J. D. Daniels and Lester Foreman. You will also be permitted to appear on that date and introduce in rebuttal such testimony as you may desire.

Respectfully,

Register

Commissioner

IMB

Cherokee Freedmen
D 329 et al

COPIES

Muskogee, Indian Territory, January 6, 1906

Louis T. Brown,

Attorney for William Tucker et al.

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedmen enrollment case of William Tucker et al., you are hereby advised that this office is in receipt of Departmental letter of December 16, 1905, in which the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, rejecting the application for the enrollment of William, Irene and Virdie Banks, and dismissing the application for the enrollment of Lucinda Whitmire as Cherokee freedmen, and granting, Commissioner Breckinridge dissenting, the applications of William Tucker, Katie Adams and her minor children and Sarah Foster, is affirmed as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire, and the case remanded as to the other applicants, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

Louis T. Brown-2.

You are, therefore, hereby notified that the Cherokee Nation has been this day advised that it will be permitted to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, January 25, 1905, and submit such testimony as it desires as to the reliability of said L. D. Daniels and Lester Foreman. You are further advised that the principal applicants in these cases have also this day been notified that they will be permitted to appear on that day and introduce, in rebuttal, such testimony as they desire.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

(SIGNED)

Tame Bixby.
Commissioner

Incl. B-4

LMC

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. GL-91.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. GL-90.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. CI-21.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-20.
GHL

Acting Commissioner.

Cherokee
Y D 329

Muskogee, Indian Territory, February 27, 1906.

William Tucker,

Welch, Indian Territory.

Dear Sir:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of yourself has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 27, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 27, 1906.

Bell, Hastings & Bavenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee Freedmen

COPY.

D-329.

Muskogee, Indian Territory, March 21, 1906.

William Tucker,

Welch, Indian Territory.

Dear Sir:

Referring to this office letter of February 27, 1906, you are advised that, by agreement between your attorney, Louis T. Brown, and the attorneys for the Cherokee Nation, the hearing in your Cherokee freedmen enrollment case has been continued from March 29, to Wednesday, April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

(SIGNED).

J. C. Beale
Acting Commissioner.

LS

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, March 21, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are advised that, by agreement between yourself and the attorneys for the Cherokee Nation, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

LS

SIGNED *Wm. C. Bull*
Acting Commissioner.

Cherokee Freedmen

COPY.

D-329, et al.

Muskogee, Indian Territory, March 21, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are advised that, by agreement between yourselves and Louis T. Brown, attorney for applicants, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, 1906, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

RECEIVED

Wm. J. Brown
Acting Commissioner.

LS

Cherokee F. D.
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Prey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-32.
GHL

Acting Commissioner.

Cherokee F D
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Frey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-31.
GHL

Acting Commissioner.

Cherokee Freedmen

R-553.

Muskogee, Indian Territory, July 19, 1906.

Starr & Patten,

Attorneys for William Banks, et al.,

Vinita, Indian Territory.

Gentlemen:

This office is in receipt of your letter of July 13, transmitting a motion for rehearing in the Cherokee freedmen case of William Banks, et al. The Act of Congress approved April 26, 1906 (Public No. 129), in part provides:

" and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act."

The records of this office show that the decision of the Commission to the Five Civilized Tribes, rejecting the application for the enrollment of William, Irene and Virdie Banks as Cherokee freedmen, was affirmed by the Secretary of the Interior December 16, 1905. As the application for the enrollment of these persons had been denied by the Secretary of the Interior prior to April 26, 1906, and as your motion

was not filed with this office within sixty days from said date, it does not appear that this office has any authority to entertain your motion.

Respectfully,

LS

Commissioner.

Cherokee Y.
D-329

Muskogee, Indian Territory, January 23, 1907.

William Tucker,

Welch, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting, among others, your application for enrollment as a Cherokee freedman. Your attorney, Louis T. Brown, Muskogee, Indian Territory, has heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl.H-47
JMH

Commissioner.

(C O P Y)

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

Louis T. Brown,
Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-51
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-52
JMH

Commissioner.

Muskogee, Indian Territory, January 23, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al. (D 329 et al), as Cherokee Freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cera, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen.

On December 16, 1905 (I.T.D. 10922-1905), the Department remanded this case to this office for rehearing and readjudication.

There is also enclosed a schedule containing the names of the Freedmen embraced in this decision, and

Secretary-2

in the event of the approval of the Commissioner's decision enrolling the applicants in this case, it is respectfully recommended that the schedule, which is Numbers 4207 to 4212, inclusive, be approved by the Department. This action is recommended in view of the provision of the Act of April 26, 1906 (34 Stat., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The names of the persons embraced in this case here follow in the same numerical order as on the schedule:

No.	Name.
4207	Tucker, William
4208	Adams, Katie
4209	Adams, Albert
4210	Adams, George Edward
4211	Adams, Elias
4212	Adams, Walter

Secretary-S-

No.	Name.
4213	Adams, Cora
4214	Adams, Elmer
4215	Adams, Ella
4216	Adams, Cordelia
4217	Feater, Sarah
4218	Beeson, Malinda

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner

Encl. B-54

COPY

LAND
9084-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith report of Commissioner Bixby, dated January 23, 1907, forwarding the record of proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission rendered June 28, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Reason, as Cherokee freedmen.

The Department, on December 16, 1905 (I.T.D.10922-1905), remanded this case to the office of the Commissioner for rehearing and readjudication.

There is also enclosed a schedule containing the names of the freedmen embraced in the enclosed decision, and in the event of the approval of the decision enrolling the applicants herein, Commissioner Bixby recommends that the schedule, numbers 4207 to 4218, inclusive, be approved by the Department. This action is

recommended in view of the provisions of the Act of April 26, 1906 (34 Stat. L., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The record shows that applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by William Tucker; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; and by Sarah Foster and Malinda Beeson. On June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered a decision granting all the applicants the right to enrollment as Cherokee freedmen. The decision of the Commission was forwarded to the Department with Office letter of August 26, 1905.

In view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, the Department, on December 16, 1905 (I. T. D. 10922-1905), remanded the case to the office of the Commissioner to the Five Civilized Tribes for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce testimony to impeach witnesses who had testified in behalf of the applicants.

Pursuant to Departmental directions, further proceedings were had relative to the application of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, January 25 and

February 8, at Vinita, Indian Territory, April 4, and at Muskogee, April 12, 1906.

The evidence shows that the applicant herein, William Tucker, was a slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of the war he left the Cherokee Nation, but returned thereto prior to February 11, 1867, and has since continuously resided therein.

The evidence further shows that all of the other applicants herein are descendants, children and grandchildren, of William Tucker, were born since 1866, and continuously resided in the Cherokee Nation from the date of their birth up to and including September 1, 1902.

In view of the facts as herein set out, and in accordance with the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat. ., 495), the Office concurs in the decision of Commissioner Rixby that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson, as Cherokee freedmen, be affirmed.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EBM-EH

J.P.Jr.

D.C.9090-1907. DEPARTMENT OF THE INTERIOR,
WASHINGTON. LLB.

I.T.D.2388-1907.

L.R.C.

February 9, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 23, 1907, you transmitted the record in the matter of the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordilia Adams, Sarah Foster and Melinda Beeson as Cherokee freedmen, including your decision of the same date, affirming the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, granting the applications for the enrollment of said applicants.

In connection with this case you transmitted a schedule containing the names of the freedmen embraced in this decision, and in the event of the approval of your decision you recommend that said schedule be approved by the Department.

Reporting February 4, 1907 (Land 9084), the Indian Office concurs in your decision that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting said applications, be affirmed. A copy of its letter is inclosed.

The Department considers your decision correct and it is hereby affirmed.

The schedule transmitting the names of the freedmen embraced in this decision has been approved this day, and two copies are inclosed for appropriate disposition.

The original of said schedule, together with the other papers in the case, has been sent to the Indian Office for its files.

Respectfully,

Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

3 inc. and 3 to Ind. Of.

D.C. 10003-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JPJr

O.K.

I.T.D.
3186-1907.
LRS

February 16, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 13, 1907 (Land 11764), the Indian Office transmitted a communication from W. W. Hastings, attorney for the Cherokee Nation, dated January 31, 1907, enclosing a protest of the Cherokee Nation against the enrollment of William Tucker et al., as Cherokee freedmen.

You are advised that on February 9, 1907, the Department considered this application and affirmed your decision of January 23, 1907.

The protest has been examined, and there appears to be no reason therein which would warrant further consideration of the case. The protest is returned for the files of the Indian Office.

The papers in the case and a carbon copy hereof are returned for the files of the Indian Office.

Respectfully,

3 inc. to Ind.Of.

AFMc
2-18-07

Signed, Thos Ryan

First Assistant Secretary.

Cherokee F
1549.

Muskogee, Indian Territory, April 15, 1907.

William Tucker,

Welch, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, February 9, 1907, and your name placed upon a schedule of Cherokee freedmen and approved by the Department on said date.

Respectfully,

Commissioner.

LMC

Cherokee v
1849 et al.

Muskogee, Indian Territory, April 13, 1907.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-2
LMC

Cherokee F
1549, et al.

Muskogee, Indian Territory, April 18, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

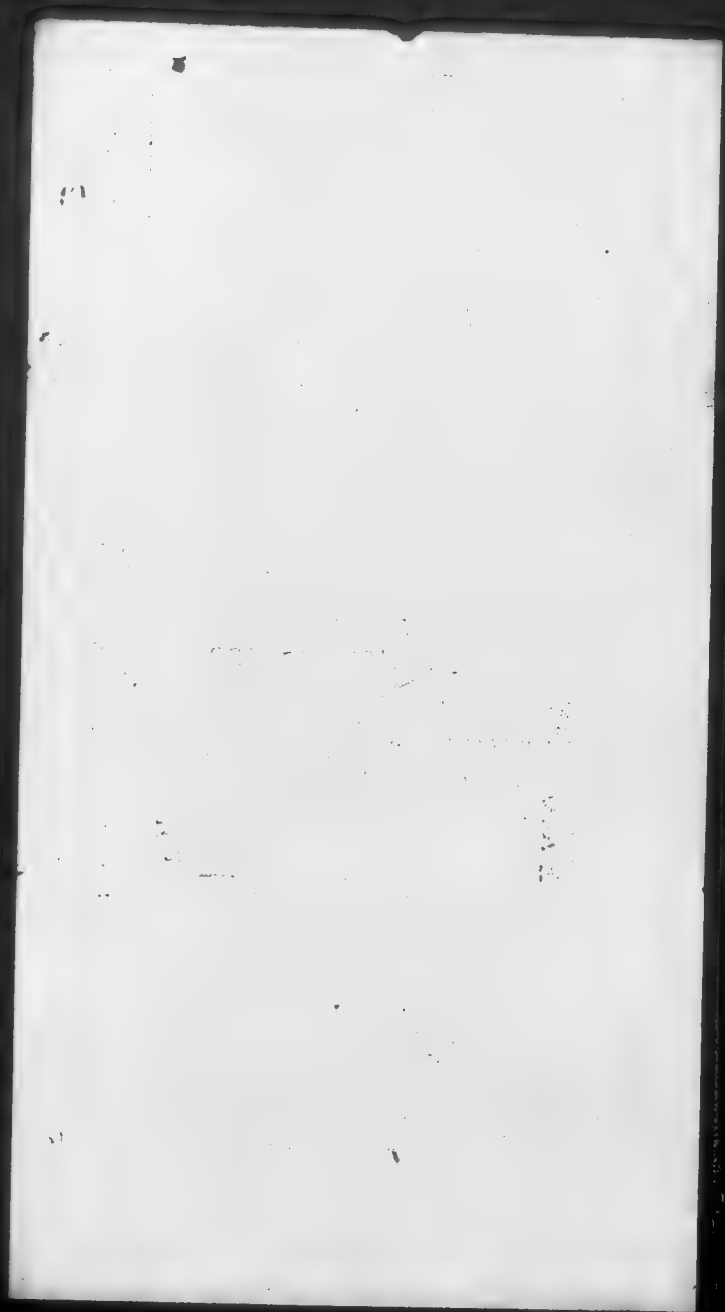
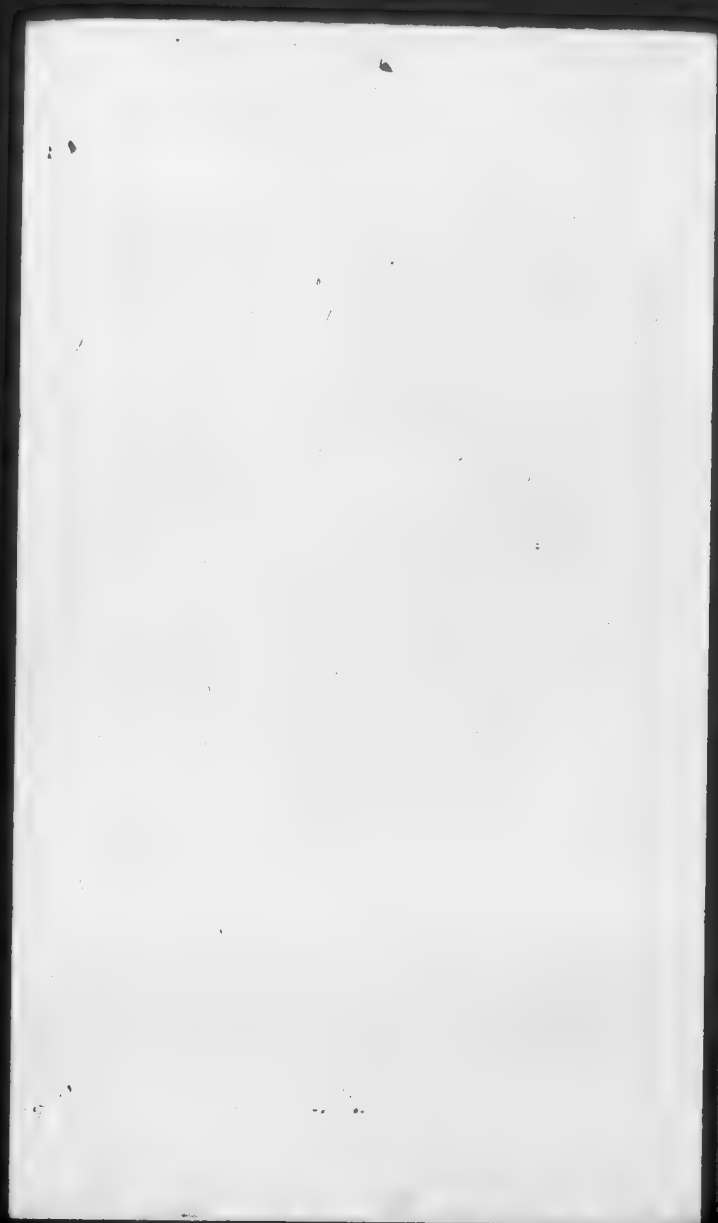
You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-3
LNC



SERIES A.

Act of November 5th 1892

NO CHEROKEE NATION, District.
 Permission is hereby granted *Geo. Tucker* a citizen
 of the CHEROKEE NATION, to employ *Geo. Tucker* as a
farmer for the term of ONE MONTH from this date.

FIFTY

"No permit shall be issued for a longer period than Dec. 31,
 of the year in which the permit is issued."

CENTS

Given under my hand and seal of office, this the day of *Aug* 189.....

CLERK

DISTRICT.

Countersigned:

TREASURER CHEROKEE NATION.

SERIES A.

Act of November 5th 1892

NO CHEROKEE NATION, District.
 Permission is hereby granted *Wm Tucker* a citizen
 of the CHEROKEE NATION, to employ *Geo. Tucker* as a
farmer for the term of ONE MONTH from this date.

FIFTY

"No permit shall be issued for a longer period than Dec. 31,
 of the year in which the permit is issued."

CENTS

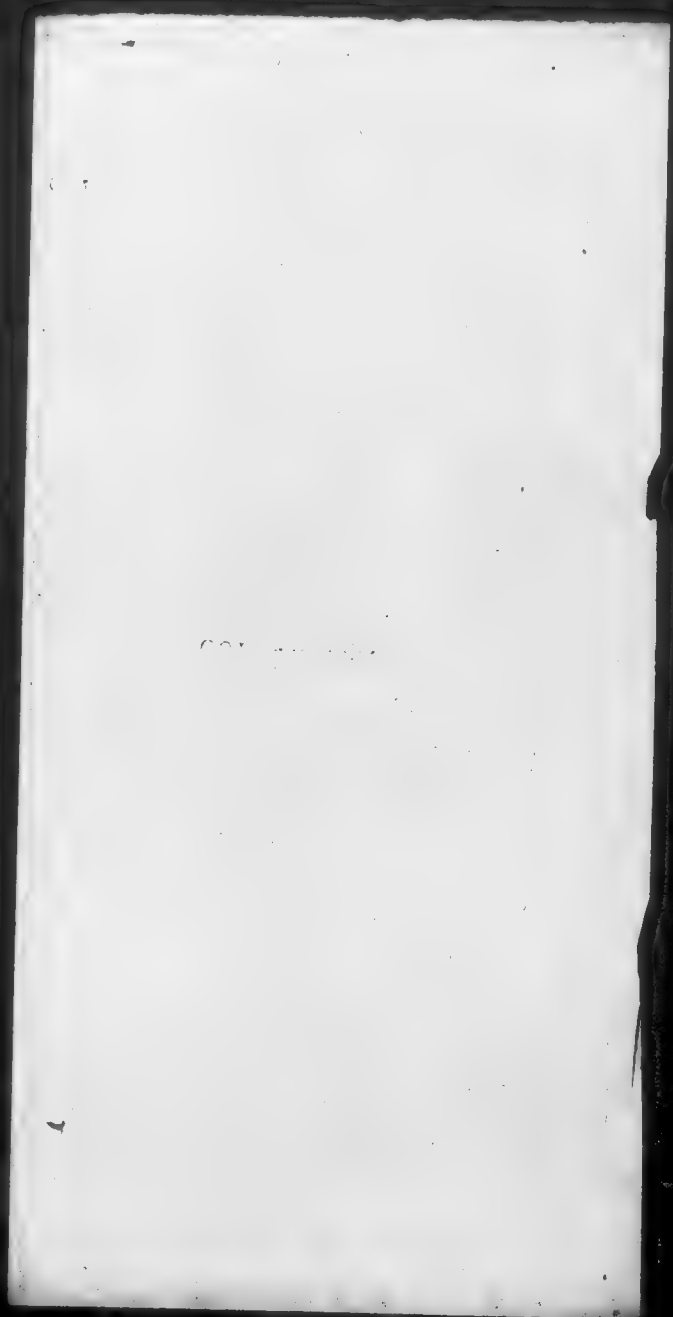
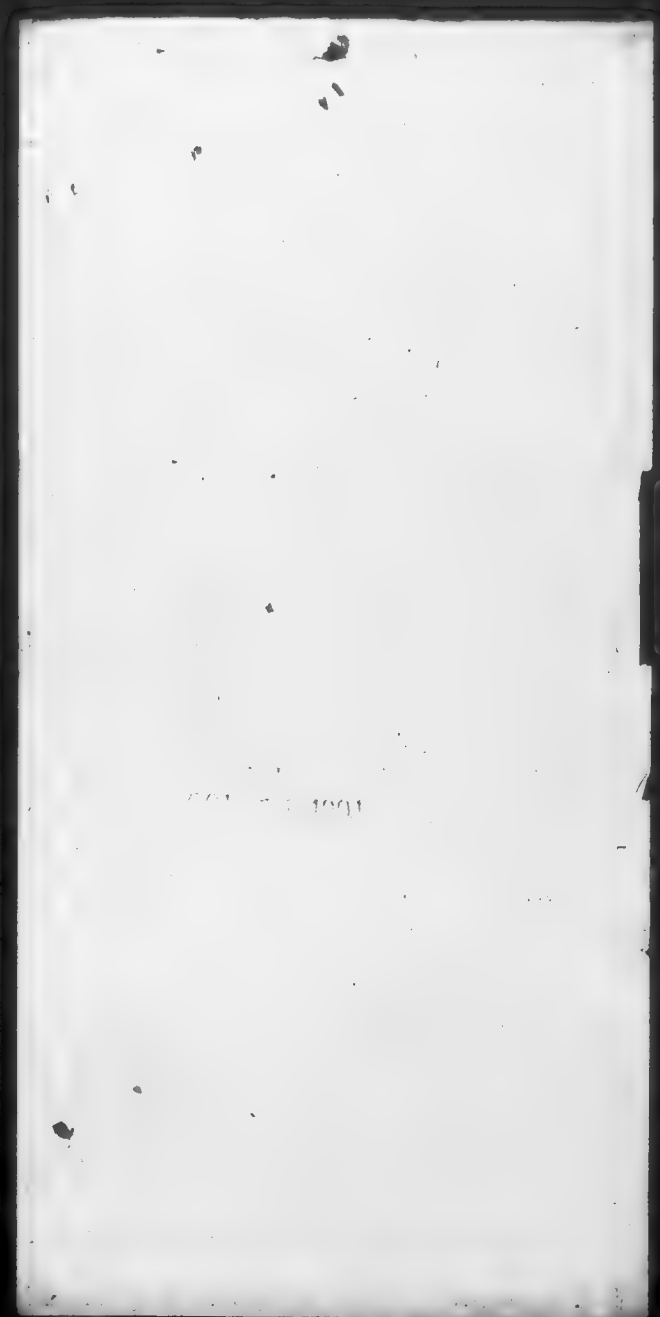
Given under my hand and seal of office, this the day of *Nov* 189.....

CLERK

DISTRICT.

Countersigned:

TREASURER CHEROKEE NATION.



ACT OF NOVEMBER 5, 1892.

N 12751

SERIES A.

CHEROKEE NATION.

DISTRICT.

Permission is hereby granted William Tucker a citizen
of the Cherokee Nation, to employ Coc Finasey as a
farmer for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the

day of

Clerk

District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

Wm. L. L. L.

Treasurer Cherokee Nation.

ACT OF NOVEMBER 5, 1892.

N 12747

SERIES A.

CHEROKEE NATION.

DISTRICT.

Permission is hereby granted William Tucker a citizen
of the Cherokee Nation, to employ M Sennahan as a
farmer for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the

day of

Clerk

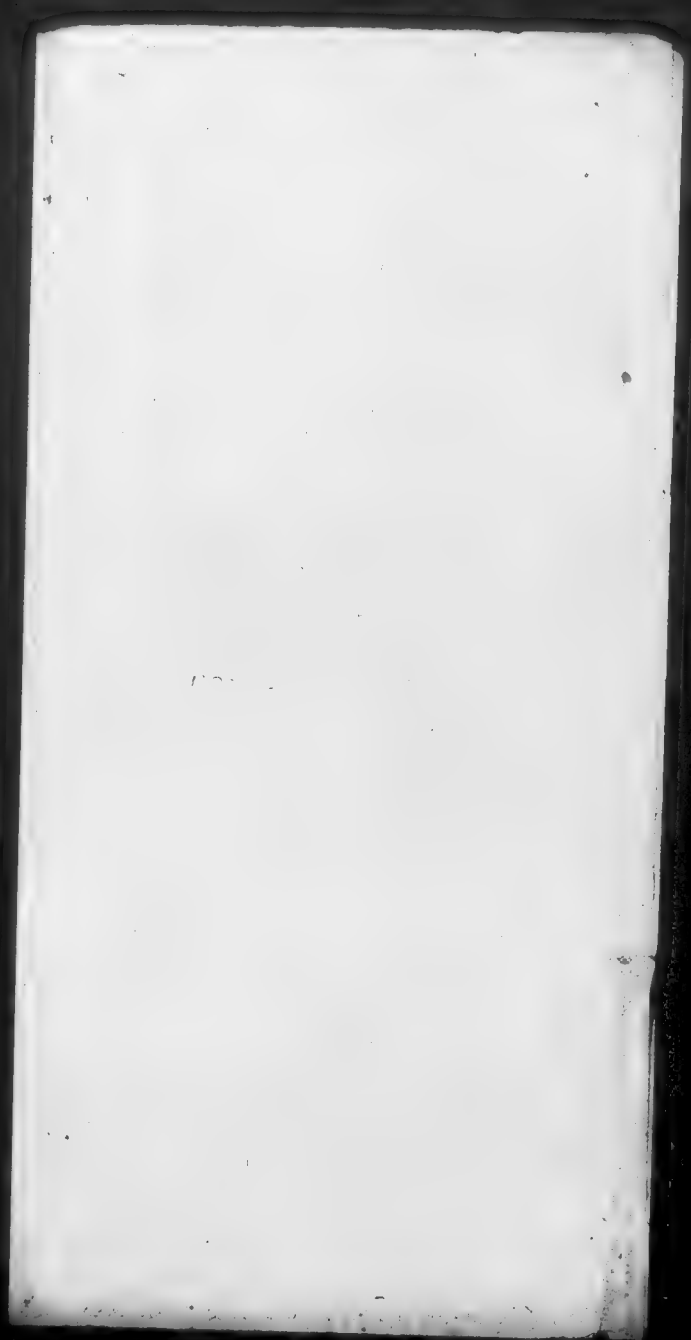
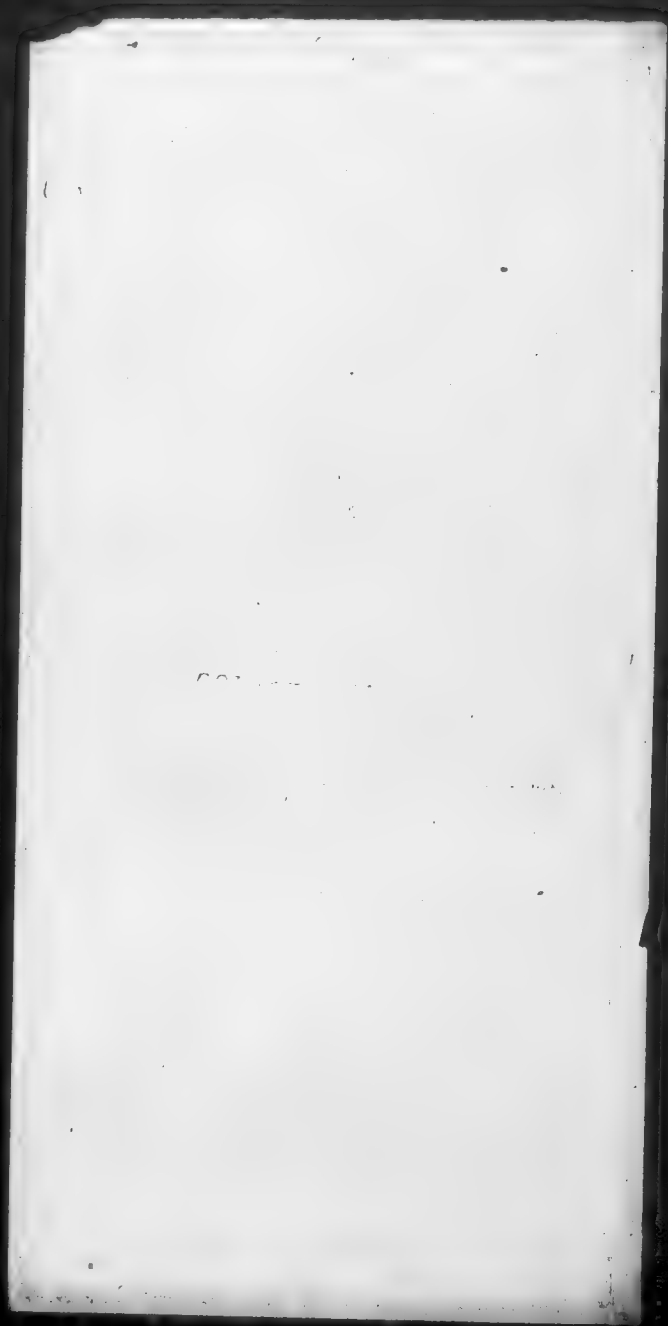
District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

Wm. L. L. L.

Treasurer Cherokee Nation.



ACT OF NOVEMBER 5, 1892.

N^o 12748

SERIES A.

CHEROKEE NATION, CHOWEESCOOWE DISTRICT.

Permission is hereby granted Wm Tucker a citizen
of the Cherokee Nation, to employ Wm Daisy as a
farmer for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the 1st day of

Nov 1897
Joem Sahay
Clerk CHOWEESCOOWE District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

[Signature]

Treasurer Cherokee Nation.

ACT OF NOVEMBER 5, 1892.

N^o 12750

SERIES A.

CHEROKEE NATION, CHOWEESCOOWE DISTRICT.

Permission is hereby granted Wm Tucker a citizen
of the Cherokee Nation, to employ Col Lindsay as a
farmer for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the 1st day of

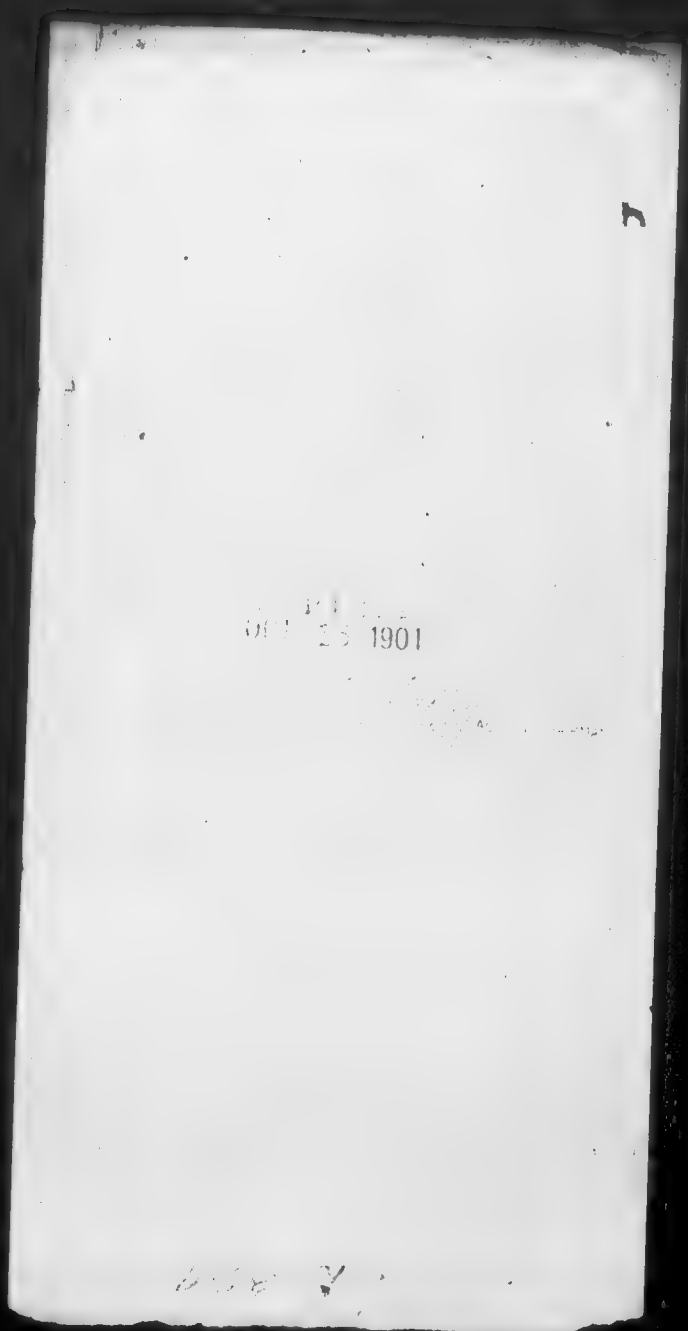
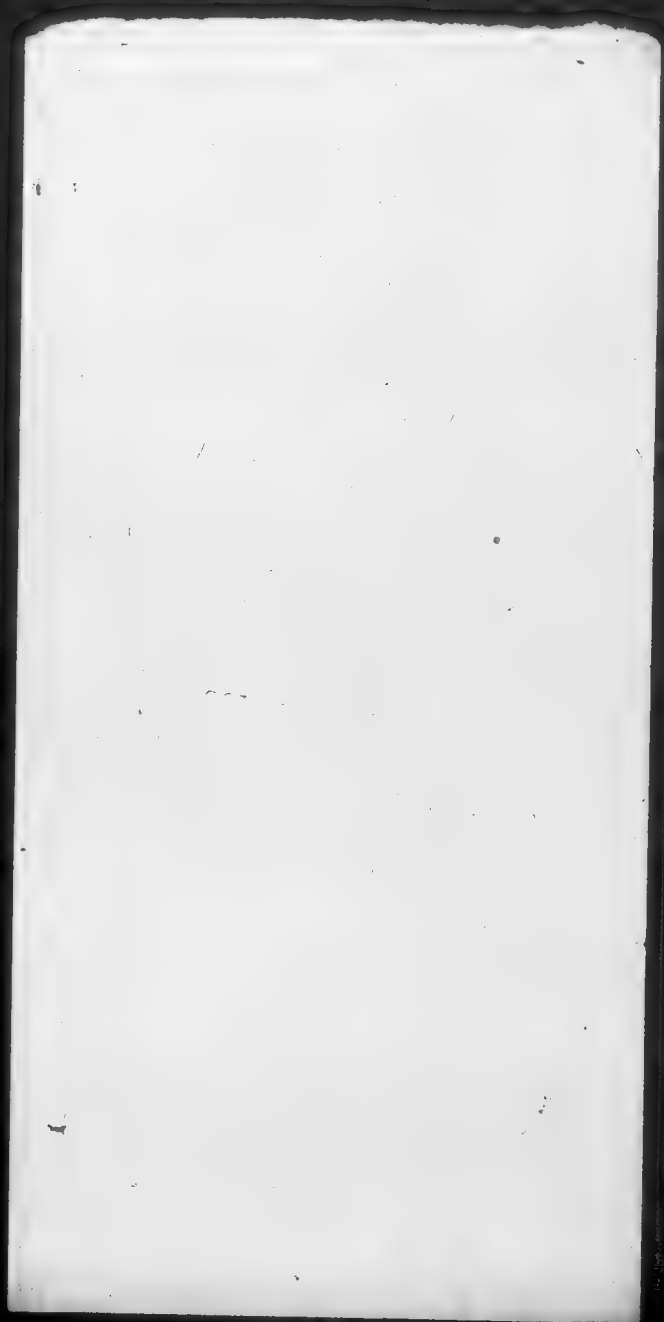
Nov 1897
Joem Sahay
Clerk CHOWEESCOOWE District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

[Signature]

Treasurer Cherokee Nation.



ACT OF NOVEMBER 5, 1892.

N^o 12749

COWEESCOOWEE

SERIES A.

CHEROKEE NATION,

DISTRICT.

Permission is hereby granted

Wm Tucker

a citizen

of the Cherokee Nation, to employ

Wm Daisy

as a

farmer

for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the

1st

day of

April

1897

John S. Sahanay

Clerk

COWEESCOOWEE

District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

Wm. L. L. L.

Treasurer Cherokee Nation.

ACT OF NOVEMBER 5, 1892.

N^o 12746

SERIES A.

CHEROKEE NATION,

DISTRICT.

Permission is hereby granted

Wm Tucker

a citizen

of the Cherokee Nation, to employ

M. Sennahan

as a

farmer

for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the

1st

day of

March

1897

John S. Sahanay

Clerk

District.

ARROW PRINT, TAHLEQUAH.

COUNTERSIGNED:

Wm. L. L. L.

Treasurer Cherokee Nation.

30329

FL-329

601 70 1001

SERIES B.

ACT OF NOVEMBER 5TH, 1892.

No.

Cherokee Nation, Coowasee District.

Permission is hereby granted *Wm Tucker* a citizen
of the Cherokee Nation, to employ *Jack Harahan* as a
Furnace for the term of *Three Months* from this date.

"No permit shall be issued for a longer period than Dec. 31 of the year in which the permit is issued."

Given under my hand and seal of office, this *1st* day of *March* 18*93*

108 White, a Rose

H. H. [Signature]
Clerk *Coowasee* District.

Countersigned:

Printed and Published by the Cherokee Nation.

ACT OF NOVEMBER 5, 1892.

SERIES A.

No 1802

CHEROKEE NATION, *Coowasee* District.

Permission is hereby granted *Wm Tucker* a citizen
of the Cherokee Nation, to employ *Jack Harahan* as a
Furnace for the term of One Month from this date.

"No permit shall be issued for a longer period than December 31 of the year in which the permit is issued."

Given under my hand and seal of office, this the *1st* day of *March* 18*93*

Charles S. [Signature]
Clerk *Coowasee* District.

[Signature]
Treasurer Cherokee Nation.

COUNTERSIGNED:

50928

Journal of Management Education

Ex. No. 2

1905

101207

3 10722

CHEROKEE CASE

No. 19329 et al

Department of the Interior,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN THE MATTER OF THE
APPLICATION FOR ENROLLMENT
OF

William Stucker et al

As _____ citizen _____ of the Cherokee Nation.

Muskogee, I. T.,

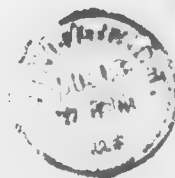
8/1 1905

Respectfully forwarded to the Secretary of the Interior
for review.

Acting Chairman.



J. C. Starr.
ATTORNEY AT LAW.
VINITA, IND. TER.



THE HONORABLE,

THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES,
BISKOGON, I. T.

U. S. Registered Mails go to
every post office in the world.

Letter
Parcel

No. 60

P. O.

Vinita, Ind. Ter.

Received for registration

July 13, 1906 from

J. C. Starr

and enclosed to

the Commissioner to the Five Civilized Tribes

per

order of the postmaster

Postmaster, per

2.00

REGISTRY RECEIPT

Post Office at

Registered Letter No. *2*
Parcel

Rec'd

GIBSON, I.T.
SEP 20 1901

190

of

addressed to

Hubbard -

Cher Fr 1550

Trans. from Cher Fr D739

Cher Fr 1550

IS CERTIFIES THAT

and *John Foster*
Barbara Tucker

of the united

MARRIAGE

according to the laws of the State of
the

on the *20th* day of *Oct.*
in the year of our Lord one thousand
eight hundred & *four* and
at *San Diego*

Geo. J. Smith
Minister

10-

JN 789

script.

Superscribed and sworn to before me this August 24th, 1901.

and that the same is a true and complete copy of the original from-
Commission to the Five Civilized Tribes
M.D. Green, per [illegible] states that as a encroachment to the

William Brock

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

AUG 28 1901

20

Commissioner.

To be filed in the case of Sarah Foster et al, CFD-739.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., May 16, 1901.

In the matter of the application of William Tucker for the enrollment of himself and three grandchildren as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Tucker.
- Q How old are you? A Well, I don't exactly know; somewhere between sixty and seventy; about 65 I will say.
- Q What is your post-office? A Welch.
- Q What district do you live in? A Coweescowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
- Q Did you ever apply to be enrolled by any other nation or tribe? A No sir.
- Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know; there has been so many different rolls taken.
- Q Is your name on the roll of 1880? A I don't know.
- Q You don't know whether it is on any roll? A Yes sir, I know it is on the Clifton and Kerns Roll and the Wallace Roll.
- Q Who do you want to enroll besides yourself? A Three grandchildren.
- Q Give me their names? A William Banks.
- Q How old is William? A He is twenty.
- Q Next? A Irene.
- Q How old is Irene? A 15.
- Q The name of the next one? A Virdie.
- Q How old is Virdie? A 10 years old.
- Q What is the father's name of these children? A William H. Banks.
- Q Is he living? A Yes sir.
- Q Why don't he enroll his own children? A He is living in the states.
- Q What is their mother's name? A Mary; she is dead.
- Q Where are these children now? A One is at my home, and the other two are in Kansas going to school. The youngest ones are in Kansas.
- Q Living there with their father? A Yes sir, same place he is living.
- Q Where were they born? A They were born in Kansas.
- Q All the children born in Kansas? A Yes sir.
- Q Was Mary Bank your daughter? A Yes sir; she went up there and married.
- Q When did she marry in Kansas? A I don't know just what year it was in.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A George Whitmire.
- Q Was he a Cherokee? A Cherokee Indian.
- Q Is he alive? A No sir, he is dead.
- Q Were you taken out of the Cherokee Nation during the war? A I was taken out; I went out.
- Q Where did you go? A I went to Kansas.
- Q When did you return from Kansas to the Cherokee Nation? A I come back in the fall of '66.
- Q Where to? A I went to Gibson when I first come.
- Q Been living here ever since? A Yes sir, been in this nation ever since.
- Q How old would your daughter, Mary, be if she were alive? A I guess 46 or 7 years old. She was born before the war. She never did go out of here; I left her here with the old lady, and when I come back I found her here.
- Q When did she go to Kansas? A She went out to Kansas and married.

2 W T

- Q You know what year she married? A No sir, I don't.
- Q Do you know how old she was when she married? A No sir.
- Q Ist William Banks her oldest child? A Yes sir.
- Q She must have been out then over twenty years? A No. She wasn't out that long; she was at my place.
- Q She never did come back from Kansas? A Yes sir.
- Q After they were married? A Yes sir.
- Q After she married, did she move back? A Yes sir.
- Q Did she move back or just on a visit? A She didn't move back; she was visiting backward and forward.
- Q But she lived in Kansas? A Yes sir, she lived in Kansas.
- Q So she must have been about twenty years old or less than twenty years old when she married? A Yes sir, I guess so, somewhere along there.
- Q And she died in Kansas, did she? A Yes sir.
- Q And her husband still lives in Kansas? A Yes sir.
- Q And these three children were born in Kansas? A Yes sir.
- Q And they always lived in Kansas? A This boy has been living with me, the oldest one, and the other ones have been in Kansas.
- Q How long has he been living with you? A He has been there quite a while.
- Q Since his mother died? A And before too.
- Q He lived with you before? A Yes sir.
- Q But the other children never lived in the Cherokee Nation?
- A No sir, they never have lived in the Cherokee Nation.

The 1880 authenticated roll and the 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicant and his deceased daughter are not found thereon. The Kerns Clifton roll examined and the name of the applicant is found on page 168, No. 4151, William Tucker, Cooweescoowee District.

- Q Did you draw strip money for these children? A Yes sir.

The Kerns Clifton roll examined and the names of the applicants grandchildren are found thereon as follows:
Page 169 No. 4168, Willie Banks, Cooweescoowee District.
Page 169 No. 4169 Irene Banks, Cooweescoowee District.
Page 169 No. 4167 Lettie Banks, Cooweescoowee District.

- Q When was it you say you came back to the Cherokee Nation from Kansas? A I come back in the fall of '66.
- L.B. Bell: Where do you live now? A I live where I have been living for thirty years on Cabin Creek where Rogers used to live.
- Q Don't you live in Chatopa? A Never been there to live in my life. I live on Cabin Creek.
- Q You say you have been living ~~at there~~ there for thirty years?
- A Yes sir, I went there in '69; that is over 31 years.
- Q You have been living at the same place all the time? A Yes sir, Mr. Schrimsher taken the census when I was there.
- Q Why didn't they put you on the roll of 1880? A I don't know why it is. Some way Mr. Bell, you all managed it.
- Q You never moved out of the country? A You come in? A Never have been out of the country.
- Q When you returned in '66, where did you go to? A To Fort Gibson.
- Q How long did you stay there? A Along until about winter. Everybody was so hungry, and they were issuing rations there and we had to go there to get something to eat.
- Q Who did you stay with? A I just camped out.
- Q Did you have a family then? A Yes sir.
- Q Did you have a family when you went off? A No sir.
- Q You married after that? A I married in Kansas.
- Q Did you marry a Cherokee? A Yes sir, a Cherokee, one of Dave

3 W T

Rowe's; she used to live with his sister that Ben Mush married.

Q These children you report here are they that woman's children?

A No sir, another's woman's children. Mary's by a woman I had when I lived here.

Q Who are these children? A Them was Lydia's children.

Commissioner Needles: Do you own any property in the Cherokee Nation? A Yes sir, I got a good farm.

Q Been living on it for thirty years? A Yes sir.

Q How many acres have you got? A About three hundred acres.

Q Have you any witnesses? A Yes sir.

L. D. Daniels, being sworn and examined by Commissioner Needles testified as follows:

Q Your name is L. D. Daniels? A Yes sir.

Q How old are you? A 56.

Q What is your post-office? A Claremore.

Q Do you know William Tucker? A Yes sir.

Q How long have you known him? A I have been knowing him about 36 years, I guess, near about.

Q Well, was he a slave before the war? A No I don't know that.

Q Where was he in 1866? A I met him at Gibson in November, I believe it was, and he come there to get something to eat and I let him have it and I got acquainted with him and others that was with him.

Q In the year of 1866? A Yes sir.

Q Have you known him continuously since that time? A About five years or six years or seven years I found him up here in Coowee-scoowee.

Q Have been knowing him ever since that.

Q You don't know whether he went out of the country during the war or not? A Yes, he said so.

Q You don't know who his owner was? A No sir; they called him Falk. I wasn't acquainted with him until I met him down there; he said that was a nickname or some thing.

L.B. Bell: The first time you saw him was in 1866? A Yes sir.

Q He was a stranger? A Yes sir, he come there with Jesse Vann.

Q And you recollect him right straight on? A Yes sir, they told me who he was down there.

Q He was introduced to you? A He was introduced; he come to get rations and I issued it.

Q Did you keep a memorandum? A Yes sir, we had to do it to keep the Creek darkies from getting rations, and those who were citizens. We were issuing to the Cherokee Freedmen.

Q Probably you can give us the day/ and the month? A If I knew this was coming up, I would have kept the book; I could have made some money on it.

Q You recollect this is the man you issued the rations to?

A Yes, I recollect it, because when I met him in '76 when I moved up here I met him frequently; his wife's folks lived right near me at Gooseneck; he told me that he was the same man I met.

Q You would not have remembered it? A Maybe not.

Q Do you remember all that you issued rations to? A I come might near knowing all the old folks; I don't remember all the children.

Q Did you issue rations to a great many? A Yes sir, from 1866 to 1867.

Lester Foreman, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q What is your name? A Lester Foreman.

Q What is your age? A 58.

Q What is your post-office? A Vinita.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

4 W T

Q Do you know William Tucker, the applicant? A Yes sir, I know him well.

Q Was he a slave before the war? A I don't know.

Q When did you first see William Tucker? A The first time I seen him was along in '66 or sometime along there when the come down after the rations after he had come back some where, I don't know where he come from. I got acquainted with him then; we were both young men.

Q Where was that at? A Fort Gibson.

Q You are satisfied you saw him in Fort Gibson? A Yes sir.

Q Has he been living in the Cherokee Nation ever since to your knowledge? A Yes sir, to the best of my knowledge. I haven't missed him out very long at a time.

Q Do you know whether he had a daughter named Mary or not? A No sir, I don't know anything about his daughter.

L.B.Bell: What were you doing at Gibson about that time?

A A little of evrything directly after the war; I was having a good time; I was young man, I didn't have any steady occupation at all.

Q Were you living there continuously or just in and out? A I was raised there.

Q I am talking about 1866 A Yes sir, I was there all the time.

Q That was your home? A Yes sir.

Q What ever business you had was in Gibson? A Yes sir, every-thing I done was in Gibson.

Q How long did this man stay about Gibson in '66? A I don't remember; I seen him just the same as I seen other people there, in and out.

Q Did he stay a month, do you reckon? A I don't know whether he stayed a month or not. He didn't stay with me; I often see n him there.

Q I understand you to say you and he were having good times?

A He was a young man and we were all having good times there. Commissioner of Applicant: How long has Mary been dead? A About seven years, I believe.

Q Did she draw money on the Wallace Roll? A I don't know whether she got money that time or not.

Q Did she draw it on the Kerns Clifton roll? A She was dead then.

The Wallace roll examined for the name of the applicant's daughter and her name is not found thereon.

Q Is there anybody here that knew Mary Banks? A I don't know whether anybody is here or not; yes, there is.

Q You have got to prove now that Mary Banks was called your child? A I don't know only by what the womans aid. She was always claimed to be my child.

Q Is your wife living? A No sir.

Q Mary was never married but once? A No sir. She might be down as Pack. Mary's mother belonged to Betsy Pack.

Joe Davis, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Joe Davis

Q What is your age? A 46 years old.

Q What is your post-office? A Vinita.

Q Are you a recognized Freedman of the Cherokee Nation? A I don't know whether I am or not.

Q You are disputed, are you? A Yes sir.

Q Do you know William Tucker, the applicant, here? A Yes sir, he raised me.

Q Did he have a daughter named Mary? A Yes sir.

Q Was she his oldest daughter? A Yes sir.

5 W T

Q Who did she marry? A She married a fellow by the name of Banks from Kansas.

Q What was her mother's name? A I don't recollect- Aunt Nancy Pack.

Q Was William Tucker married to Nancy Pack? A I couldn't tell you; I was only a little boy; they lived together I guess before the war like old colored folks did.

Q She was recognized as the child of William Tucker, A Yes sir.

Q You and she were raised together? A Yes sir.

Commissioner of Applicant: Who was Mary Banks mother? A Nancy Pack.

Q Were you married to her at that time? A No sir. There was no use in marrying them times; they would be taken away from you.

Q You weren't married in slave time? A No sir.

Q Is Nancy Pack living? A No sir, she is dead.

Q Who did she belong to? A Betsy Pack.

Q Was Betsy Pack a Cherokee Indian? A Yes sir.

Q Is Betsy Pack dead? A Yes sir, long ago.

Q She was the child of Nancy Pack? A Yes sir.

Q You took Mary to Kansas with you when you went? A No sir, she was there during the war. I went to Kansas.

Q She never did leave until she married? A No sir, she never did leave until she married.

William Tucker applies for the enrollment of himself and three grandchildren, William Banks, Irene Bank and Verdie Banks. He avers that said children are the children of his daughter, Mary Banks, by her husband, William H. Banks; that they were born and lived in the State of Kansas. Said Mary Banks was married in the State of Kansas. He avers that Mary Banks was the child of Nancy Pack, a slave, and that Nancy Pack belonged to Betsy Pack, a Cherokee citizen. He avers that said Mary Banks never left the Cherokee Nation until she married her husband, William, which facts are all stated in the testimony. The name of William Tucker cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns Clifton roll, and his three grandchildren, William Banks, Irene and Virdie Banks, are identified on the Kerns Clifton roll. He avers that he was the slave of one George Whitmire. He makes satisfactory proof as to residence.

By reason of the fact that his name is not found upon the authenticated roll of 1880, and the further fact that his citizenship is contested, said William Tucker will be listed for enrollment as a Cherokee Freedman upon what is known as a doubtful card. By reason of the fact that Mary Banks,

the mother of the children applied for, does not appear upon the authenticated roll of 1880, nor upon any rolls in the possession of the Commission at this time, and the further fact that as to their residence in the State of Kansas, and further as to their citizenship be protested against by the authorities of the Cherokee Nation, the said children will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. Said William Tucker will be duly notified of the action of the Commission when the same is consummated, by mail.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a ~~true~~ full true and correct transcript of his stenographic notes thereof.

(signed) E. G. Rothenberger.
Subscribed and sworn to before me this 20th day of May, 1901.

(signed) C. R. Breckinridge,
Commissioner.

RECEIVED
JUL 11 1901
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C.
William Tucker

M. D. Green, being first duly sworn states that as a stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that the same is a true and complete copy of the original transcript.

M. D. Green
Subscribed and sworn to before me this August 24th, 1901.

[Signature]

Commissioner.

AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

SS

Foster

In the matter of the application of *Sarah*
for enrollment as a Cherokee Freedman.

No. F. D. *739*

Henry Pack, of lawful age, being duly sworn on
oath states that on the *20th* day of *September*, A. D., 1901, he registered
to *Sarah Foster* whose postoffice is *Lenapah*
Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto
attaches the receipt of the Postmaster at *Fork Gibson* Indian Territory;
and that on the *28th* day of *September*, 1901, he received the return
card which is hereto attached, signed by the said *Sarah Foster*, showing
that he had received said notice.

Henry Pack

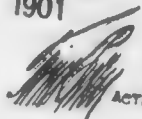
Subscribed and sworn to before me on this the *28th* day of *Sept*, A. D. 1901.

J. C. Starr
Notary Public.

9 410737

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
OCT 2 1901


ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Sarah Foster
for enrollment as Cherokee Freedmen:
Case No. F. D. 739

To Sarah Foster Lenapah I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 15th 1901 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this _____

L. B. Bell

W. M. Hastings
J. S. Daupont
Attorneys for the Cherokee Nation.

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1. The first part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them.

2. The second part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them.

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10. The tenth part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them.



DOUBTFUL, as to wife, and children.

Department of the Interior,
Commission to the Five Civilized Tribes,
Wavata, I. T., June 17, 1901.

In the matter of the application of Jerry Foster for the enrollment of himself and wife and three children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, he testified as follows:

- Q What is your name? A Jerry Foster.
Q How old are you? A Somewhere about 50.
Q What is your post-office address? A Lemapah.
Q In what district do you live? A Gowaesseeowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Ever apply to be enrolled by any other nation or tribe? A No sir.
Q Is your name upon the roll of 1890? A Yes sir.
Q On the census roll of 1896? A Yes sir.
Q Who is it you want to enroll besides yourself? A My wife and three children.
Q What is your wife's name? A Sarah Foster.
Q How old is she? A About 33.
Q What are the names of your children? A Clara.
Q How old is Clara? A 12 years old, the 26th of last September.
Q Next one? A Clarence.
Q How old is Clarence? A Nine years old.
Q Next one? A Carrie, she was born in 1895.
Q Six years old? A Yes sir.
Q Is your wife's name on the authenticated roll of 1890? A I guess she is.
Q What was her father's name? A William Tucker, I think he goes by.
Q What is her mother's name? A Her name was Lattie Vann.
Q Father and mother living? A Her father is living, her mother is dead.
Q Was she ever married before she married you? A No sir.
Q What was her name before you married her? A Went by her father's name.

1890 authenticated roll of citizens of the Cherokee Nation examined and applicant identified thereon as page 101 #1046 Jerry Foster, Gowaesseeowee, adopted colored; 1890 authenticated roll of citizens of the Cherokee Nation examined and applicant's wife not identified thereon.

- Q When were you married to Sarah Tucker? A About 15 years ago.
Q Have you a certificate of marriage? A No sir.
Q Any proof of marriage? A Yes sir.

GILBERT VANN, being sworn and examined by Com'r Needles, testified as follows:

- Q What is your name? A Gilbert Vann.
Q How old are you? A I am about 45 or 6.
Q What is your post-office? A Lemapah.
Q Do you know Jerry Foster? A Yes sir.
Q You know his wife, Sarah? A Yes sir.
Q What relation is she to you? A Half sister.
Q You know whether Jerry and Sarah were ever married or not? A Yes sir.
Q How do you know that? A Because I know when they was married.
Q Where were you at the time? A I wasn't exactly at the place.
Q You didn't see them married? A No sir, not exactly.
Q When was that? A It has been about as near as I can get at it, about 12 or 13 years.
Q Have they lived together ever since that continuously as man and wife? A Yes sir.
Q How many children have they got? A They have got four or five, I

Jerry Foster et al 2

never counted them. I can tell you by going over their names.

Q Has he got one named Clarence? A Yes sir.

Q And one Carrie? A Yes sir.

Q One Clara? A Yes sir.

Q Got any others? A That's all, I believe he has got.

Q These children born to him after he was said to be married to Sarah? A Yes sir.

APPLICANT, re-called and further examined, by Com'r Needles:

Q Who married you? A Man named Smith.

Q Is he living? A Yes sir.

Q These children are all living at this time? A Yes sir.

Q You and your wife have been living out in the Cherokee Nation? A Yes sir, always have, never been out.

Q Your wife's father's name is William Tucker? A Yes sir, she used to belong to George Whitacre.

Q He got a good son named William Banks? A Yes sir.

BY Cherokee Rep's Hastings:

Q What was your first wife's name? A Edna.

Q When did you and she separate? A It has been a long time, I don't know just how long.

Q Was you had some children by her? A No sir.

Q When did you marry her? A I can't tell just when, it has been a long time.

Q Since the war? A Yes sir.

Q About how many years did you live with her as husband and wife? A I don't know exactly.

Q Your best judgment, about how many? A Oh must have been 10 or 15 years I guess.

Q Who married you and her, what preacher? A This same man, Smith. Q You ever have a divorce from Edna? A No sir, she went off and left and was gone several years, and married as in and I married.

Q And you married too? A Yes sir.

Q Was your last wife ever married before? A No sir.

Q This is her first marriage? A Yes sir.

1896 census roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:

page 403 #161 Jerry Foster, Cooweescoowee District;

1896 roll examined for applicant's wife, and name not found.

page 403 #162 Clara Foster, Cooweescoowee District;

page 403 #164 Carrie Foster, Cooweescoowee District;

page 403 #163 Clarence Foster, Cooweescoowee District.

Q Did you draw what is known as Strip money, for your wife? A Yes sir.

Q Your wife would get her citizenship through her father William Tucker, would she? A Her mother was raised by me, too.

Q Is her mother on the roll of 1880? A I don't know sir, she is dead.

Q How long has she been dead? A 8 or 9 years.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined for applicant's wife, and identified as follows:

page 169 #4157 Sarah Foster, New Tucker, Cooweescoowee Dist.

BY MR. HASTINGS:

Q Is Willie Banks and your wife blood kin? A William Banks's mother was a half sister to my wife, they are by different mothers.

Q Same father but different mother? A Same father but not the same mother.

Jerry Foster et al 3

By Com'r Needles:

- Q Is your wife's mother living? A She is dead.
Q Your wife's mother of course was married to William Tucker?
A Yes sir.
Q And Tucker was married before he married your wife's mother, Lettie, was he, or afterwards? A I guess he was married before this other girl was older than these others.
Q What was your first wife's name? A Edna Rowe.

Com'r Needles: Jerry Foster applies for the enrollment of himself, his wife, Sarah and three children, to-wit: Clara, Carrie and Clarence Foster; he is duly identified on the authenticated roll of 1880 as well as the census roll of 1896, and makes satisfactory proof as to residence, his wife Sarah is identified upon the Wm-Clifton pay roll as Sarah Foster; he avers that she is ~~only~~ a child of William Tucker, by one of William Tucker's wives, Lettie, Vann. She can not be identified upon the authenticated roll of 1880, neither can her father; it appears that from the record that William Tucker the father of Sarah Foster, applied to be enrolled as a Cherokee Freedman on May 16, 1901, and was listed for enrollment upon D card 329; the testimony taken in the application of William Tucker, D 329, will be made part of the record in the case at bar, and a copy thereof will be filed with the application of the applicant for the enrollment of his wife; his three children enumerated herein are duly identified upon the census roll of 1896; Applicant avers that he was married formerly to one Edna Rowe, from whom he was separated, and he has no satisfactory proof of divorce; applicant certifies that he was married to his wife Sarah Tucker, but presents no certificate of marriage; the children are duly identified and satisfactory proof is made as to residence, consequently Jerry Foster will be listed for enrollment as Cherokee Freedman, his wife Sarah Foster and his three children enumerated herein will be listed for enrollment as Cherokee Freedman upon a doubtful card, awaiting first, satisfactory proof of divorce, between said Jerry Foster and his former wife Edna Rowe before his marriage to Sarah Foster, his present wife; and awaiting proof of citizenship as to Sarah Foster, the whose citizenship depends upon the citizenship of her father, William Tucker; awaiting certificate of marriage between Jerry Foster and his wife, Sarah applicant will be duly notified of the decision of the Commission in the matter of his application when arrived at, and said notification will be sent by mail.

V. D. Green being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this June 24, 1901.



Commissioner.

(17M^c)

Cherokee Freedmen
D 739

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment
of Clara, Clarence, Carrie and Cora Foster, as Cherokee Freedmen.

--:--

O R D E R .

From the records of this Commission it appears that on June 17, 1901, at Nowata, Indian Territory, application was made to this Commission for the enrollment of Clara Foster, Clarence Foster and Carrie Foster, as Cherokee freedmen; that thereafter, to-wit, on May 16, 1902, an affidavit was filed with this Commission showing the birth, on October 18, 1901, of Cora Foster, a full sister of the above named applicants, and that said applicants were duly listed for enrollment on Cherokee Doubtful card No. 739.

The records further show that the above named applicants are the minor children of one Jerry Foster; that the said Jerry Foster is duly identified on the Cherokee authenticated tribal roll of 1880, Cherokee census roll of 1896, was listed by this Commission for enrollment as a Cherokee freedman on Straight card No. 997, and is included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior on January 16, 1903, opposite No. 2405; and that the above named minor applicants were born since 1880 and have continuously lived in the Cherokee Nation since birth.

It is, therefore, ordered that the enlistment for the enrollment of Clara Foster, Clarence Foster, Carrie Foster and Cora Foster, as Cherokee freedmen on Doubtful card No. 739, be cancelled, and that said applicants be listed for enrollment as Cherokee freedmen on Straight card No. 997.

Tamm Dixby.

Commissioner

Dated at Muskogee, Indian Territory,
this JAN 1 1903

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications of:

William Tucker, et al.,	Cherokee Freedmen D 329
Katie Adams, et al.,	Cherokee Freedmen D 330
Lucinda Whitmire,	Cherokee Freedmen D 352
Sarah Foster,	Cherokee Freedmen D 739
Malinda Beeson,	Cherokee Freedmen D 969

D E C I S I O N .

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee freedmen were made to this Commission, in 1901, by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and his five minor children, William, Lettie, Mose, Edward and Sequoyah Whitmire; by Jerry Foster for himself, his wife, Sarah Foster, and his four minor children, Clara, Clarence, Carrie and Cora Foster, and by Malinda Beeson for herself. The applications made for the enrollment of Zeke Whitmire, William Whitmire, Lettie Whitmire, Mose Whitmire, Edward Whitmire, and Sequoyah Whitmire, applicants in C. F. D. 352, and Jerry Foster, Clara Foster, Clarence Foster, Carrie Foster, and Cora Foster, applicants in C. F. D. 739, have been heretofore determined, and are not included in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein except the applicants in C.F.D. 329, were born since the commencement of the war of the rebellion, and claim their right

to enrollment as Cherokee freedmen by reason of being descendants of William Tucker, the principal applicant in C.F.D. 329, who, at the commencement of the war of the rebellion, was the slave of a Cherokee citizen; that during said rebellion the said William Tucker removed from the Cherokee Nation to the state of Kansas, but returned to said Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

All of the applicants herein except the applicants in C.F.D. 329 and C.F.D. 352, have resided continuously in the Cherokee Nation from the date of their birth up to and including September 1, 1902, and William Tucker, the principal applicant in C.F.D. 329, has resided continuously in the Cherokee Nation from his return to said Nation in 1866, up to and including September 1, 1902.

William Banks, Irene Banks and Virdie Banks, the minor applicants in C.F.D. 329, were born since 1865, and are the children of one Mary Banks, who, at the commencement of the war of the rebellion, was the slave of a Cherokee citizen, and who, during said war, continued to reside in the Cherokee Nation; that about the year 1874, said Mary Banks removed to the state of Kansas, where she married one William Banks, a citizen of said state, and continued to reside therein until the date of her death in 1894. The evidence fails to show that said Mary Banks has at any time possessed any property in the Cherokee Nation.

In view of the above facts it is considered that said Mary Banks forfeited her right to citizenship in the Cherokee Nation, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

William Banks, Irene Banks, and Virdie Banks, were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their said mother. None of the applicants herein can be identified on either the 1880 authenticated Cherokee roll or the 1896 Cherokee census roll.

The evidence further shows that Lucinda Whitmore, applicant in C.F.D. 352, died prior to September 1, 1902.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date, shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster, and Malinda Beeson, should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495); and that the application made for the enrollment of William Banks, Irene Banks and Virdie Banks, as Cherokee Freedmen should be denied, under the provisions of the Act of Congress above cited.

It is further the opinion of this Commission that the application made for the enrollment of Lucinda Whitmire as a Cherokee Freedman, be, and the same is, hereby dismissed, under the provisions of Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(Signed)

TAKS BIXBY

Chairman

"

T. B. NEEDLES,

Commissioner

Commissioner

Dated at Muskogee, Indian Territory

this JUN 28 1905

72737

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

JAN 31 1908

COMMISSIONER

Cherokee Freedman D 329
" " D 330
" " D 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MEMPHIS, I. T., JANUARY 25, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL.; as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee nation, James S. Davenport.

The records of this office show that on January 5, 1906, the applicants, their attorney, and the attorneys for the Cherokee Nation were duly notified by letter, that on December 16, 1905, the Secretary of the Interior remanded this case for further hearing as to the reliability of the applicants' witnesses, Luster Foreman and L. D. Daniels, and that they could be permitted to appear on January 25, 1906, and introduce further testimony, at which time the following proceedings were had.

W. C. CHAMBERLAIN, being first duly sworn, testified as follows: on behalf of Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A W. C. Chamberlain.
Q What is your post office? A Vinita, Indian Territory.
Q How long have you lived at or near Vinita, Indian Territory? A I came there in 1874, , lets see, about 41 years.
Q Did you know Luster Foreman during his life time? A Yes sir.
Q How long did you know him before his death? A I knew him from about 23 or 24 years.
Q Did you know his reputation in the community in which he lived for being a truthful and reliable man?

By Brown: I object to that question in that form.

On Behalf of the Commissioner: Objection noted.

- Q Did you know Luster Foreman's reputation in the community in which he lived during his life time for truth and veracity?
A Yes sir.
Q Was that reputation good or bad? A It was bad.
Q From that reputation would you believe him on oath? A I would not.

BY BROWN:

- Q Mr. Chamberlain, Luster Foreman lived in Vinita for a number of years didn't he? A Yes sir.
Q You were personally acquainted with him during his life time and during the number of years he lived in Vinita? A Yes sir.

- 2-
- Q Luster was one of these jolly kind of fellows that carried on a great many jokes wit the people in and around town? A Yes sir.
- Q He was that kind of a fellow that every citizen who lived there always liked to joke with him in some manner? A Yes sir.
- Q Did you ever have any business relations with him? A I don't know whether I did or not, I must have had some, I don't remember any particular business.
- Q Can you remember any you have ever had with him? A No sir.
- Q Now then on business matters, business obligations and matters of that kind, are you prepared to state to this commission that you would not believe him on oath?

Mr. Davenport: I object to that as not being a proper question with reference to a man's truthfulness.

On Behalf of the Commissioner: Objection noted.

- A No sir, I would not.
- Q Are you testifying as to what you know personally about this man?
- A Well what I have heard and know too.
- Q The did you ever hear say that Luster Foreman wasn't to be believed? A Well I don't remember any particular person, the general community though would not believe him.
- Q Yet you cannot give us the name of a single individual who told you they would not believe him, can you? A I don't remember any particular person.
- Q Mr. Chamberlain did you ever hold any official position in the town of Vinita? A Yes sir.
- Q What positions have you held? A I have held all the positions offered there in the town.
- Q You used to be Mayor of the town? A Yes sir, several times.
- Q Luster Foreman has testified in your courts? A I don't remember of any times.
- Q Are you willing to say he hasn't testified? A I don't remember of him being in court before me.
- Q Don't you know as a matter of fact that he has been a witness several times and upon his testimony you rendered a decision and assessed a fine and punishment to the defendant? A No sir, I don't remember any particular case.
- Q Would you swear you haven't done that? A No sir, I don't remember what case I tried, it may be a matter of record there, I was Mayor 4 or 5 years there at different times.
- Q You can't give this Commission the name of a single individual who has ever told you that Mr. Foreman's reputation for truth and veracity is bad, and that they would not believe him on oath, can you? A Why I could I suppose, if I would remember the names, I don't remember any particular one though.
- Q Luster was what we sometimes term a jolly good fellow and told a great many tales which most everybody in the community and we all looked upon that way? A I don't remember of him telling many tales, he was sort of a darkey,-- you know how he was.
- Q Isn't that the truth, wasn't he one of those fellows that every time you meet him you expected him to tell something new, and when you passed around the neighborhood wasn't he a sort of a good old darkey that had something new to say to you? A He was on that order.
- Q Don't you know as a matter of fact that the Attorneys for the Cherokee Nation at the time the Commission to the Five Civilized Tribes commenced to make a roll of freedmen citizens of the Cherokee nation, employed Luster Foreman to assist them in determining who were the citizens and also introduced him in a large number of cases as a witness in their behalf? A I don't know that.

- Q Don't you know as a matter of fact that John W. Wallace, representing the United States Government, and the man who made what is known as the Wallace roll, that in making that roll carried with him Luster Foreman, and that Luster Foreman's testimony was used in a large number of cases upon which the Wallace roll was made?
- A I don't know.
- Q Don't you know as a matter of fact that he did testify in a large number of cases before the Wallace court? A I have heard he did, but I don't know myself.
- Q You resided in Vinita at that time? A I think I was at Tahlequah at that time.
- Q Didn't you reside in Vinita when Mr. Wallace was in Vinita making the roll? A I don't know that for sure, what year was that?
- Q '89? A I was at Tahlequah at that time, my home was there but I was at Tahlequah.
- Q As a matter of fact don't you know Luster was there?

Mr. Davenport: I object to that because the Cherokee Nation was not represented before Wallace in making that roll and he might have used the most unreliable man in the world in making that roll.

By Brown: In reply to that the attorney for the applicants desires to state that the records of the department show that the Cherokee Nation were given an opportunity to be represented at that hearing and that they refused to appear, and they are therefore bound to whatever Mr. Wallace did.

Mr. Davenport: To that the Cherokee nation's representatives state that the Department has held that they are not bound by that, and not even in the Kern-Clifton roll made several years later.

On Behalf of the Commissioner: Objection noted.

W I T N E S S E X C U S E D .

GEORGE W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A George W. Clark.
- Q What is your post office? A Vinita, Indian Territory.
- Q How long have you lived at Vinita and near there? A I have lived there and near there 41 years.
- Q Did you know Luster Foreman during his life time? A Yes sir, I knew Luster.
- Q Did you know his reputation in the community in which he lived prior to his death for truth and veracity, that question can be answered yes or no? A Yes sir.
- Q Was that reputation good or bad? A Well it wasn't count, very good, Luster wasn't.
- Q From that reputation would you believe him on oath where he was interested in any matter?

By Brown: The question is objected to it not being properly put.

On Behalf of the Commissioner: Objection noted.

A Well I would not myself.

BY BROWN:

- Q Mr. Clark if he wasn't interested in the matter at all would you believe him on oath? A Well I would have to know it myself, I was acquainted with him along time, I knew him when I soldiered.
- Q Now coming up as to the matter as to when some person possible returned within a certain neighborhood and taking your knowledge of his reputation and taking the man as you knew him, would you believe him? A There is where he broke my confidence, in testifying in these cases.
- Q Are you testifying what you know yourself? A Yes, there is where he broke my confidence.
- Q How close do you live to Vinita? A I live in the town of Vinita now.
- Q How close did you live to the town of Vinita prior to the time Luster Foreman died? A I don't remember just how long I had lived there prior to Luster's death.
- Q How long did you live on your farm there south east of Vinita?
- A There in that neighborhood 41 years, not on the same farm.
- Q When did you first go on that farm? A I went up there in 1845, been there in the neighborhood ever since.
- Q The truth is you have lived on a farm southeast of Vinita? A Southeast and southwest ever since the war.
- Q How long have you had a residence in the town of Vinita? A 20 odd years.
- Q Do you mean by that that your family has resided in the town of Vinita for that number of years? A That is what I mean first and last.
- Q Now lets get at it as it is, how long has your family resided continuously in the town of Vinita? A Well I don't exactly recollect the year we moved there, but I know 20 years ago this coming February my family was living there off and on and I stayed all night there with my folks. There was a snow fell there 22 inches deep.
- Q Isn't it a fact until a year or two ago that you spent most of your time out on the farm? A Yes most of my time, I generally went home sometimes twice a week and sometimes once a week, and sometimes 3 or 4 times a week.
- Q Luster Foreman was one of those old plantation darkies and always had something funny to tell you and some joke when you met him?
- A Always yes.
- Q Every time you met him didn't you expect him to tell you something funny? A Yes.
- Q He was simply one of those jolly good fellows that you always liked to meet? A Yes, we all picked at him.
- Q And he always told you some funny tale or story that you didn't believe? A Yes.
- Q Nobody never came to you and told you they wouldn't believe Luster Foreman on oath did they? A I don't know as anybody did.

BY MR. DAVE PORT:

- Q You have heard a great deal of talk of how Luster would swear he haven't you? A

By Brown: Objected to on the ground the question is leading and suggestive to the answer.

On behalf of the Commissioner: Objection noted.

- A I have heard a right smart outside talk how he would swear in regard to these claim cases.

BY BROWN:

- Q Who ever talked about that Mr. Clark? A Well I have heard it in just a general conversation.
- Q Can you name a single person that you have heard say that? A Well I suppose I could.
- Q All right lets have the person? A Well I have heard Mr. McClellan
- Q That is Charles McClellan is it? A Yes.
- Q He is a witness here in the case? A I believe he is.
- Q Who else? A I have heard Captain Bell speak about him.
- Q You mean L. B. Bell? A Yes.
- Q Who is Attorney for the Cherokee Nation? A Yes.
- Q Who else? A Well I have heard various ones.
- Q These are the only persons whose names you can call is it?
- A Well in conversation around I have heard a good many but didn't exactly recollect, I have heard them say that they would not believe him on oath.
- Q You have heard a great many? A Yes.
- Q And the only persons whose names you can call is Charley McClellan, a witness in this case, and Col. L. B. Bell, one of the attorneys for the Cherokee Nation? A Well I guess it is.
- Q Now when was it you had this conversation with Mr. McClellan when he stated he would not believe Luster Foreman on oath? A I don't remember.
- Q When was the last time? A I don't remember.
- Q About how long as it been ago? A I don't remember.
- Q Has it been since you were subpoenaed as a witness in this case?
- A No, I haven't talked to any of them since then, I was just subpoenaed day before yesterday.
- Q You came down on the same train with Mr. McClellan did today didn't you? A No, I think he come from Claremore, I understood him to say he got in here last night.
- Q How long has it been since Mr. McClellan lived in and around Vinita? A It has been sometime.
- Q About how many years? A Since he lived there?
- Q Yes sir? A I don't know as he ever did make his home there.
- Q The truth is Charley McClellan never lived in the town of Vinita in his life? A No, I don't believe he did, he has been there and owned property there but I don't think he ever made a residence there.
- Q When was it you talked to Col. L. B. Bell about this man's reputation as to truth and veracity? A I don't know as I ever had very much talk about it at all, he told me he wanted me to come down here in this case.
- Q And that was the time he told you that he would not believe Luster on oath? A I don't know as it was, he asked me if I would believe him on oath.
- Q It is just a question now isn't it? A No, not now cause he is dead.
- Q And that is the only reason now? A No, I wouldn't believe him if he was alive.
- Q When was it you talked to Mr. L. B. Bell, one of the attorneys for the Cherokee Nation in which he stated to you or in your presence that he would not believe Luster Foreman on oath? A I can't remember when it was. When he asked me he said he wanted to try to impeach Luster.
- Q Did Col. L. B. Bell ever state to you that he would not believe Luster Foreman on oath? A I don't believe he did.

BY MR. DAVENPORT:

- Q Luster lived around Vinita there ~~xxx~~ for several years didn't he?
- A Yes sir.
- Q What did he do around there? A He lived around there and I think worked around right smart for the town I didn't pay any attention to him, had more business of my own that I could attend to.

WITNESS EXCUSED.

CHARLES W. McCLELLAN, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. DAVENPORT:

- Q What is your name? A Charles W. McClellan.
Q What is your post office? A Claremore.
Q How long have you lived at or near Claremore? A Well, I moved up in that country in 1870 I believe it was.
Q Did you know a fellow by the name of L. D. Daniels? A Yes sir.
Q How long have you known him? A I don't recollect, I have known him a long time.
Q Did he ever live in Claremore in that community near Claremore?
A Yes sir, I think he lived there, I don't know just exactly how long but a year or so, maybe a year and a half.
Q Did you know him before he lived there? A Yes sir.
Q Where was he living when you first knew him? A He lived way above there somewhere but he used to always be at Court and around.
Q Did you know him when he lived in or near to Claremore? A Yes sir.
Q How far is that to where you lived? A About 7 miles.
Q Where was your place of marketing and going to post office? A He lived in Claremore and that was my post office.
Q Do you know his reputation in the community in which he lived there at Claremore for truth and veracity? A, I think I do, yes sir.
Q Do you know his reputation in the community in which he lived upon the Verdigris River, for truth and veracity.

Mr. Brown: At this time I ask the attorney for the Nation to confine his questions to the neighborhood in which L. D. Daniels resided.

Mr. Davenport: The attorney for the Cherokee Nation is asking the questions and if he is making any objections let him make them. I have asked him if he knew his reputation in the community in which he lived on the Verdigris River.

A Yes sir, I think I do.

By Brown? A The answer is objected to for the reason the witness should state yes or no.

On behalf of the Commissioner: Objection noted.

A Yes.

- Q Did you ever know of him living in any other community other than the community on the Verdigris River above Claremore and the Claremore community? A I don't know just where he lived but he was nearly always at Court there.
Q Was his reputation in which he lived at Claremore for truth and veracity good or bad? A Bad, very bad.
Q Was his reputation on the Verdigris River where he lived for truth and veracity good or bad? A Bad.

BY BROWN:

- Q How long have you lived in and around Claremore? A About 35 years.
Q How long had you been living in and around Claremore until you became acquainted with L. D. Daniels? A I don't know, I think I knew L. D. when I first went up there.
Q Where was he living then? A I think up somewhere about Coody's Bluff, I am not positive where he did live I would only see him at the Court house.

- Q When you would see him around the Court house what would he be doing? A Oh spouting some of his big yarns, you know what a great gasser he is, you knew him.
- Q About how often would court meet at Claremore at different times? A Oh at different times.
- Q How often? A I don't know how often, just owing to the amount of business they had, at elections and court.
- Q How long did he live in and around Claremore where you have lived? A I think he made his home there something near two years.
- Q About when was it he moved in that vicinity, about what year? A I don't recollect what year he moved there.
- Q What is your best judgment? A Well I have seen him there, I never was about his house, I don't know just when he did move there, but I had seen him there after he was living there, he told me himself here a few years ago but what time he come and when he left I don't know.
- Q What is your best judgment? A I don't know when he moved.
- Q You don't know the year? A No.
- Q Don't you know about what year? A He has been off and on there all the time, I don't know just when he told me he was living there, that has been about some 3 or 4 years ago I guess.
- Q It was after the Commission to the Five Civilized Tribes commenced to make the roll of Cherokee freedmen that L. D. Daniels moved in the vicinity of Claremore, wasn't it? A I don't know just when he moved there, he used to be there, but I know he told me he was living in town, that has been some 3 or 4 years ago, I don't know just exactly the date, I didn't come to town very often but in public gatherings always found L. D. there.
- Q L. D. Daniels was a very prominent man in politics, about as prominent as a man of his color? A Yes to hear him tell it.
- Q You expected him when you went there? A I pretty near always seen him, didn't expect it that I remember of.
- Q Who ever told you that they would not believe L. D. Daniels on oath? Alf I have heard one I have heard fifty.
- Q Name one? A I don't know who all I haven't heard.
- Q Name one? A All my associates there that I know, I have talked about him, Clem Rogers, water Lips.
- Q He is dead? A Major Lips dead, when did he die?
- Q Who else? A Watt Starr, he just died a few days ago.
- Q Who else? A Everybody I have heard talking about it, well I don't recollect every man I have heard talk about him.
- Q Now these are three persons you have heard talk about him, one of which is dead, you say there about fifty? A There might have been twice fifty, I never ~~xxxx~~ heard anybody say anything else about him.
- Q Now can you name another individual that told you that they would not believe L. D. Daniels on oath? A Yes.
- Q All right? A Ben Burgis, I don't know everybody that I have heard talk about him.
- Q Now that is four, it is very important that you name them, now name another? A Everybody that I know of.
- Q Call some of their names? A Well I don't recollect who all.
- Q Of the large number of people you have heard talk about him you can name these four? A Well I can't ~~xxxx~~ remember everybody that I have heard talk about him.
- Q Name some of them? A Davenport.
- Q That is J. E. Davenport one of the Attorneys for the Cherokee nation? A He and him have talked about it.
- Q One of the attorneys for the Cherokee Nation? A That is what I understand he is attorney.
- Q Now name another? A Bill Chambers and Teeco Chambers.

- Q You have heard Teese talk about him? A Yes, all I ever heard him say about him, it is just common talk that L. D. Daniels is the biggest liar on earth.
- Q Is there any one else you can recollect? A All my neighbors around there that I have heard talk about him.
- Q When was it you had a talk with Clem Rogers in which he told you that he would not believe L. D. Daniels on oath? A I don't recollect the date.
- Q Tell me the year? A Well I think I heard him say so right recently.
- Q Now when was it with reference-----? A Now do you expect to recollect the date about which-----
- Q When was it in reference to the time you were subpoenaed in this case? A I think we were talking about it last week.
- Q In reference to the time you were subpoenaed as a witness in this case? A I think that is the way this conversation came up, I told him I was subpoenaed down here in this case and we were talking about it.
- Q Did you bring the matter up with him or he with you? A I don't recollect that.
- Q Where were you standing? A I don't remember that, over there in Claremore though.
- Q Don't you remember what place it was? A No, I don't.
- Q When was it you had a conversation with Major Lips and he told you he would not believe L. D. Daniels on oath? A It has been along time ago.
- Q About how long ago? A I couldn't say, two or three years, a year or so, we are close neighbors.
- Q Since the Commission to the Five Civilized Tribes began making a roll of Cherokee freedmen? A I think it was.
- Q When was it you talked to Watt Starr? A I don't remember that.
- Q What is your best judgment? A Sometime--I think the last time I was at his house, sometime this last fall.
- Q And this fellow Peen Burgin when was it you talked to him about it? A I think we were talking about it since I was subpoenaed down here.
- Q Who brought the conversation up, you or he? A I don't remember anything about that.
- Q When was it you talked to Writbavemport about it? A I don't recollect, it seems to me about a year or two.
- Q Since the Commission has commenced to make a roll of Cherokee freedmen was it? A Yes, since then.
- Q When was it you talked to the Chambers boys about it? A I don't remember.
- Q Your best judgment? A Within the last 3 or 4 years.
- Q In all these conversations that you have had in which parties have told you that they would not believe L. D. Daniels on oath how would the conversation come up? A Just be talking generally that is just common talk there at Claremore, that he is the biggest liar on earth and wouldn't believe him.
- Q These people just come up and told you that they wouldn't believe him? A It was just common talk.
- Q Can you remember anything else that you talked about in those conversations except what these people told you in regard to L. D. Daniels? A Just talked about what we thought he would say.
- Q Can you remember anything else you talked about besides this? A I don't know as I do.
- Q You are a citizen of the Cherokee Nation by blood? A No.
- Q By adoption? A Yes.
- Q Your family are Cherokees by blood? A Yes.

- Q You are prejudice to some extent against persons claiming citizenship because they were former slaves of Cherokees? A Well but I don't know but what I am.
- Q Do you know Mr. Chamberlain who has just testified in this case? A Yes sir.
- Q Did you ever have a talk with him about L. D. Daniels and Luster Furman? A I don't remember that I ever did, I don't remember every little conversation that has come up, I might have been in company with somebody else, I don't remember such things. I know the common belief so far as L. D. Daniels, what the people say where we live where he has been.
- Q Do you remember when John W. Wallace made what is known as the Wallace roll? A Yes.
- Q Were you in and around his court during that time? A I don't think he was.
- Q Who subpoenaed you? A Mr. Hall had me subpoenaed.
- Q When? A Last week.
- Q The truth is Mr. McClellan about all the conversations you have had with reference to this particular matter has been since you were served with the subpoena? A With these different parties.
- Q The parties whose names you have given this Commission? A In regard to L. D. up there since that?
- Q Yes? A Some of it has and some has not.
- Q All of the conversations have been since the Commission commenced to make a roll of the Cherokee freedmen? A I have heard people speak about old L. D. 20 years ago, he was the biggest liar on earth.
- Q Did you live in the vicinity in which L. D. did? A I lived in Coconawatchee District and he did and he was there. He would stand around and gag and fellows would say that is some of L. D.'s lies.
- Q You don't know where L. D. lives now, do you? A No.
- Q You don't know how long it has been since he ~~kind~~ left the town of Claremore? A No.

W I T N E S S E X C U S E D .

BEAN BURGIE, being first duly sworn, testified as follows on behalf of the Cherokee nation:

BY MR. DAVENPORT:

- Q What is your name? A Bean Burgie.
- Q What is your post office address? A Claremore.
- Q How long have you lived in Claremore? A 19 years.
- Q Do you know L. D. Daniels? A Yes sir.
- Q Did he ever live in Claremore? A Yes sir.
- Q How long have you known L. D. Daniels? A I have knowed him for years, several years.
- Q Do you know what his reputation in the community of Claremore in which he lived at one time is for truth and veracity?

By Brown: Object to that on the ground it is incompetent.

On behalf of the Commissioner: Objection noted.

A Yes sir.

Q Was that reputation good or bad? A Well it was bad.

BY BROWN:

- Q Who told you it was bad? A People generally all told me.
- Q Well now name one? A One that said it was bad?
- Q Yes sir? A I could mention several.
- Q Mention one? A Well the Chambers, one or two of the Chambers.
- Q They was the same Chambers about which Charley McClellan testified?
- A I don't know what Charley McClellan testified to.
- Q Well now when you say the Chambers who do you mean? A The Chambers family.
- Q What are their names? A There are several of them, big family of the Chambers, William Chambers, Teece Chambers and there were several of them.
- Q Who else told you that L. D. Daniels reputation for truth and veracity was bad? A Well I never paid any attention to who it was but it was generally spoken.
- Q Who generally spoke it? A All of them.
- Q Name some of them? A Well Charley McClellan.
- Q Charley McClellan is a witness in this case? A I don't know.
- Q He is here isn't he? A Yes sir.
- Q He came in this room and testified just before you did? A I don't know, I wasn't out there, he might have.
- Q Well who else? A Well there are lots of them, I don't recollect their names, it is the general impression of the people.
- Q Now you have named the Chambers boys and Charley McClellan, can you name any one else? A Not in particular, there are lots of them.
- Q When was it Teece Chambers told you he would not believe L. D. Daniels on oath? A He never told me that.
- Q Well did William Chambers tell you that? A He never told me that.
- Q When was it Charley McClellan told you? A I have heard him say several times.
- Q When? A I never set the date down.
- Q When was the first time? A I don't recollect.
- Q When was the last time? A I don't know.
- Q Did he ever? A Yes.
- Q Well when? A I told you I don't recollect, I heard him tell it to a crowd.
- Q Who was in the crowd besides you and McClellan? A I don't know, I never looked around to see who was in the crowd.
- Q Was there any one in the crowd when he told you that? A It was just the general impression of the people.
- Q Was there any one else in the crowd? A Lots of them.
- Q The only person you remember was Charley McClellan? A He was talking.
- Q He is the one that did the talking? A Yes.
- Q And he is the one that is a witness here today? A I guess so.
- Q Where was this conversation held when Charley McClellan told you he would not believe L. D. Daniels on oath? A In Claremore.
- Q Whereabouts? A In the town.
- Q In the north, south, east or west? A Neither one, about the middle.
- Q In what place? A On Main Street.
- Q What place of business? A Well, several places of business along there.
- Q Name one? A Close to the Drug Store, close to the Hotel, and close to the restaurant on the public street there between all these houses.
- Q Now when was it? A I don't know exactly I never set the date down.
- Q What is your best judgment? A It has been sometime ago.
- Q Was it 20 years ago? A No.
- Q Was it five days ago? A It has been longer than 5 days ago.

- Q Give your best judgment? A Do you want me to tell the day.
 Q I want you to tell as near as you can? I told you as near as I can, it was on the street where he said it.
 Q You don't know when it was? A No.
 Q You don't know where it was? A I told you where it was.
 Q Could you swear it was on Main street? A Yes.
 Q Can you give the name of a single individual outside of Mr. McClellan who were present when you had this conversation? A I told you once, I don't know who all were around there.
 Q But you did know Charley McClellan? A Yes, because he was talking.
 Q Were you looking at the rest of them? A Yes, I sometimes looked around.
 Q How did this conversation come up? A Well I don't recollect how it come up, what first started it or nothing of the kind.
 Q All you know---? A I heard some of them, some men made a remark and said we understand that they are going to get after L. D. Daniels about swearing some folks in on the roll.
 Q That is since McClellan was subpoenaed down here as a witness?
 A I don't know as it was.
 Q How long have you known L. D. Daniels? A For a number of years.
 Q Where does he live now? A I don't know exactly where but way up towards Coffeyville somewhere.
 Q Have you ever been to his house? A No sir.
 Q Do you know what his post office address is? A No sir.
 Q Do you know how far he lives from the railroad? A No sir.
 Q You don't know where he lives do you? A I know he lives up the other side of Claremore.
 Q How do you know? A He said so.
 Q How long did he live in and around Claremore? A A year or two.
 Q Have you talked with anybody about this case since you have been here? A No.
 Q Not a soul? A No.
 Q Did you tell anybody that you had had a conversation with some parties in which Mr. McClellan told you that the reputation of L. D. Daniels for truth and veracity was bad? A No.
 Q Have you had a conversation with any man in which you have told him? A No.
 Q Then will you explain to this Commission why it was you were subpoenaed here as a witness?

Mr. Davenport: I object to that, it isn't necessary why he could explain why he was here as a witness.

On Behalf of the Commissioner: Objection noted.

- A As far as that is concerned, I haven't talked to any of the Commission.
 Q But have you talked with anybody else representing the Cherokee Nation? A I have talked with lots of people but not in regard to the case.
 Q Did you know that you were going to be asked when you came upon this witness stand as to the reputation of L. D. Daniels in the community in which he lives in regard to his truth and veracity?
 A No, I was subpoenaed down here in the L. D. Daniels case.
 Q Didn't you have a conversation out in the hall just awhile ago with Joe Davis in which you stated that you didn't know anything about L. D. Daniels reputation? A I don't know Joe Davis.
 Q Do you know Lum Mogaier? A Yes, we were all talking out there and I have found out here since I have been here and I said if the balance of them didn't know no more than what I do, I don't know what they will do.

- Q You say you have found out since you came here what you came here for, how you did have a conversation out there in the presence of Joe Davis and Sam Mc-air? A Yes.
- Q That was prior to the time you were called in here to testify?
- A Yes.
- Q At that time didn't you state that you didn't know anything on earth about the reputation of L. D. Daniels? A No.

WITNESS EXCUSED.

GEORGE W. CLARK RECALLED:

BY LOUIS T. BROWN:

- Q Mr. Clark you are a citizen of the Cherokee by blood? A Yes sir.
- Q You naturally have some prejudice against persons claiming citizenship by reason of the fact that they were former slaves of Cherokee Indians?

Mr. Davenport: I object to that, he has got no right to call and make a witness his own and show his prejudice or bias one way or another.

On Behalf of the Commissioner? Objection noted.

- A I don't know as I have. I think it was a bad Treaty that put them in but then I have got to abide by it.
- Q You would not swear that you haven't? A Yes I would swear that I have none against those that returned within six months after the ratification of the Treaty. I have been witness for several of them in their behalf where they returned.
- Q You have testified in a great number of freedom case for the Cherokee Nation? A I have testified in several, yes.
- Q You are the same Mr. Clark who testified that the Horse Creek Fight occurred in 1867, are you not? A I am the same identical man.

WITNESS EXCUSED.

JERRY POSTER, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q What is your name? A Jerry poster.
- Q What is your post office address? A Raton, Indian Territory.
- Q About what is your age? A I am 50 somewhere, I don't know exactly what.
- Q Do you know the applicant William Tucker? A Yes sir, I have known him all my life.
- Q When did you see him, if at all, for the first time after the close of the war?

Mr. Davenport: Now the representative of the Cherokee Nation object to going into the original case unless it be understood now that if testimony be brought out on the original case that this case be continued until such a time that the representatives of the Cherokee Nation have time to get testimony to rebut it, it being understood that the case set today was on the ground for the impeachment of Master Foreman and L. D. Daniels.

Louis T. Brown: The applicants desired to state that this case was sent back to the Commissioner for the purpose of permitting the Cherokee nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, and also stated that the applicants would have an opportunity to rebut what testimony the Cherokee nation might introduce. The applicants desire at this time to prove by the witnesses they shall introduce that when L. D. Daniels and Luster Foreman testified that when the applicant was in the Cherokee nation in the fall of '66 that they testified to what was true, and in the mind of the applicants it is clearly advisable.

On Behalf of the Commissioner: Objection noted.

- A The first time I seen him after the war we moved from Fort Gibson upon Grand River and I saw him at Bunk Markham's store, in the fall of '66.
- Q Had you known him prior to that time? A Yes sir, ever since I was a boy.
- Q And when you saw him at Bunk Markham's in the fall of '66 did you recognize him? A Yes sir, I did.
- Q Have you known him continuously since that time? A Yes sir.
- Q Where has he resided? A He has been living up here on Cabin Creek quite awhile, for years.

BY MR. DAVENPORT:

- Q How old are you now Jerry? A I am 50 some odd.
- Q And how near did you live to Tucker before the war? A It must have been, not over ten miles. if that far.
- Q What became of you during the war? A I stayed here at Fort Gibson.
- Q What relation are you to Tucker? A I am no relation to him.
- Q By marriage? A Only by marriage.
- Q What is that? A I married his daughter.
- Q Your wife then is William Tucker's daughter? A Yes sir, she is.
- Q Well after the war you moved from Fort Gibson to what place?
- A Upon Grand River to the Martha Vann place.
- Q Who was living there? A Sam Downing and Lewis Downing. And lot of Indians around there.
- Q That is on the west side of Grand River? A No sir, on the east side of Grand River.
- Q What time of the year did you go up there? A We moved up there in the spring along in April when we left Fort Gibson.
- Q That was what year? A It was in '66. '65 I raised a crop over there in the bottom at Gibson and in '66 moved upon the Lewis Downing place.
- Q And Tucker came there when? A It was in the fall of '66 when I saw him there at Bunk Markham's store.
- Q Where was the store? A It was right up a hollow there.
- Q How far from the Martha Vann place? A It must be three miles.
- Q Was it on the west side or east side of the Grand River? A On the east side.
- Q Near whose place was this store you saw him at? A It was Bunk Markham's place.
- Q Was Bunk living there at that time? A Yes sir, running a store there.
- Q You never saw William Tucker at that time until after Bunk Markham opened up his store? A He had his store opened up when I went there.

- Q Who was with Tucker at that time? A He was the one, I know there was a lot of people that lived around there, Eli Vann, George Vann, Spring Creek George--
- Q Well where did Tucker locate them? A Over there close to Joe Vann's, in there somewhere.
- Q Don't you know where he located? A No sir, I don't, I didn't go over to where he lived.
- Q Then how long after that until you saw him again? A I saw him several times until I moved back to Gibson.
- Q How often ~~times~~ near have you lived to Tucker since that time? A Of course, I don't live right at him, I have got a place right at him, I have known him all my life.
- Q Then were you and his daughter married? A About 16 years.
- Q Where was Tucker living when you and she were married? A On Cabin Creek where he is living now.
- Q What part of Cabin Creek? A 12 miles south of Chetopa.
- Q How long has he been living at that place? A It has been ever since, went up there in '57, seems like as near as I can remember.
- Q Were you up there at that time to know that he went there in 1857? A I passed through there from up there on Grand River as I be going to the Lynch settlement. We boys used to go up there to work.
- Q You didn't pass his house going to the Lynch settlement from Port Gibson did you? A No sir, I was going to the state to work.
- Q How many years has Tucker lived in the state since the war? A I don't know of him living in the State only what little time he go to town when he was trading.
- Q He never came back to Port Gibson after the close of the war? A Yes sir, my mother saw him there.
- Q Do you know of your son knowledge? A I am just going what my mother told me.
- Q I am asking you what you know yourself? A I saw him on Grand River.
- Q You moved from Port Gibson up there? A Yes sir, early in the spring, in April.
- Q You hadn't seen Tucker in Port Gibson before you moved away from there? A No sir, I hadn't.
- Q And you didn't see him until after Bunk Warkentz opened his store up there? A Yes sir, he was running the store there then.
- Q And since that time you have been seeing William Tucker upon Big Cabin near the Kansas line? A Yes sir.
- Q You live where? A Up here on Gosensack on Cedar Creek.

ON TESTIMONY OF THE COMMISSIONER:

- Q About how old are you? A I am 50 some odd I don't know exactly 48 or 50.
- Q You stated that you knew the millitant, William Tucker, before the war? A Yes sir, I did.
- Q Do you remember seeing him before the war? A I guess I have.
- Q Do you remember? A Yes sir.
- Q About how old were you then? A I don't know just exactly I was a slave, I was raised up like a hog, they didn't tell us our ages, I was a great big boy, I drove teams during the war.
- Q Are you a Cherokee freedman yourself? A Yes sir.
- Q Is your wife living now? A Yes sir.
- Q Her name is Sarah? A Yes sir.
- Q Are your children Clara, Clarence, Carrie, and Cera all living? A Yes sir.

BY LOUIS T. BROWN:

- Q Does your name appear upon the Authenticated roll of 1860? A Yes sir.

WITNESS RICHARD.

COLUMBUS McHAIR, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Columbus McHair.
Q Your post office address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear on the Authenticated roll of 1860? A Yes sir.
Q Do you know the applicant, William Tucker? A Yes sir.
Q About how long have you known him? A I have known him ever since about the commencement of the war.
Q When did you see him for the first time after the war? A The first time I ever saw him after the war was along about in November, '66.
Q Where? A In Port Gibson.
Q In the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q What was that when you saw him after the war? A I saw him in November '66.
Q Where? A Port Gibson.
Q How old was he then? A I don't know anything about his age.
Q How old were you? A I guess I must have been about 15 or 17.
Q How old are you now? A I am 55, next birth day 56.
Q How long had you known William Tucker then, before you saw him at Port Gibson? A When I first got acquainted with him it was at Webbers Falls along about the commencement of the war.
Q How old were you when the war commenced? A I was 11 years old.
Q You saw him at Port Gibson in November, 1866? A Yes sir.
Q How many did you see there at that time? A I don't know.
Q Did you see a whole host of people there in '66? A I saw lots of them, I saw lots of soldiers there.
Q About how many cases have you testified in? A Not a great many that I know of.
Q How many different places were you in November, 1866, and saw people? A I come right on down from Sequoyah District and come up there in November and stopped there with Joe Kell and went on from there to Cabin Creek.
Q How long were you with William Tucker there at Port Gibson at the time you saw him? A I never saw him there only about one day.
Q You saw him about one day? A Yes sir.
Q You had seen him once or twice before the war? A Yes sir, he was ever frequently around the place there.
Q Did he live near Webbers Falls before the war? A No sir, he was over there at Bill Holts.
Q Where were you? A I stayed right over there close to Bill Holts at McDaniel's.
Q You were a small boy? A Yes sir.
Q And Tucker was a grown man? A Yes sir.
Q And you just met him at Port Gibson and recognized him as being the same man? A No sir, he made himself known to me and I remembered who he was.
Q Tucker recognized you as being the boy he had seen? A Yes sir.
Q And he made himself known to you? A Yes sir.
Q When did you think of that first after you went away from there that you had met Tucker there at Port Gibson? A Yes sir, I have seen him frequently since.
Q Have you testified in this case before? A No sir.
Q And he has been an applicant for citizenship for the last 25 years? A I don't know that.
Q ~~Do you know that he has been a recognized citizen?~~
Q You knew that he has not been a recognized citizen? A I couldn't say that, I don't know.

- Q Then he come to get you to testify he told you he had not been recognized? A Well I don't know Mr. Davenport.
- Q You are the same Columbus McWair that has testified in many cases? A Yes sir.
- Q There is no other colored man living by the name of Columbus McWair that knows as many freedmen, colored persons, as you? A I don't know of any Mr. Davenport.

BY LOUIS T. BROWN:

- Q In addition to the freedmen cases you have testified in on part of the applicant, you have also testified on behalf of the Cherokee Nation in several cases? A In some cases, yes.
- Q When the Commission to the Five Civilized Tribes commenced to make a roll of freedmen you were in their employ were you not? A Yes sir.
- Q And you were used as a witness in several cases? A In some cases I was, yes.

BY MR. DAVENPORT:

- Q Tell me one of the cases you have testified in for the Cherokee Nation? A Well of course I can't think of them.
- Q Well I want to know? A I know there was some cases they called me on for the Cherokee Nation, of course I was satisfied the people were not citizens.
- Q You can't remember a single case you were called? A Yes sir, I can remember some of them.

W I T N E S S E X C U S E D .

Mr. Davenport: The representative of the Cherokee Nation ask that the case be continued until February 8, 1906, to enable them to get testimony to rebut the testimony of Jerry Foster and Columbus McWair to the new matters brought out today in regard to the return of the applicant.

Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to give the Cherokee Nation an opportunity to show that when L. D. Daniels and Luster Foreman testified that the applicant returned within the time prescribed by the Treaty of 1866 that they testified falsely; that no new testimony has been introduced; that the Cherokee Nation knows that the only points involved in this case is as to whether or not the applicant, William Tucker, returned to the Cherokee Nation prior to February 11, 1867; that they knew of this matter and certainly knew at that time that we would rebut any testimony tending to disprove that fact.

Mr. Davenport: The representative of the Cherokee Nation have not undertaken to rebut any testimony today tending to prove the fact relating to the return of the applicant, but the applicant has offered in testimony by new witnesses upon that point which was not set down for hearing, and the representative of the Cherokee Nation so stated that the time it was offered that if it was offered they would ask time to look the matter up and offer testimony if it could be secured to contradict the testimony offered by the applicant today upon the question of the applicant's return.

Louis T. Brown: The applicant desires to state that this application was made on May 16, 1901, and that the Cherokee Nation knew at that time that the applicant would contend that he was a slave of a citizen of the Cherokee Nation during the war and that he returned within the time required by law, and they have had since that time to introduce testimony tending to disprove that fact and that the only contention they have made is that the evidence of L. D. Daniels and Luster Periman could not be believed, to which we have answered today, and certainly objects to this case being allowed to stand open until at a time when they can search the country and the states and possibly secure some testimony that might tend to prove that the applicant did not return within time.

On Behalf of the Commissioner: The motion of the representative of the Cherokee Nation will be granted and the case continued until February 6, 1906, at nine o'clock A. M.

Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 30th day of January, 1906.

Wm. H. White

Notary Public.

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COMMISSIONER OF THE GENERAL LAND OFFICE

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[Signature]
COMMISSIONER

Cherokee Freedman D 329
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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 8, 1904.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER as ~~an~~ Cherokee freedman.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee nation, James S. Davenport.

The hearing of this case was continued from January 25, 1904, upon action of Attorney for the Cherokee Nation, until February 4, 1906, at which time the following proceedings were had.

J. H. MCGHEE, being first duly sworn, testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A J. H. McGhee.
Q What is your post office? A Fannison, I. T.
Q What is your age? A I am 47, going on 48.
Q How long have you lived in the Cherokee nation? A I was born in the Cherokee nation, and I went out a little while time of the war, and come back here in 1868.
Q When you come back to the Cherokee Nation in 1868, what part of the Cherokee nation did you locate in? A Upon Big Cabin about 20 miles above Vinita.
Q Do you know a colored man named William Tucker who lives up there? A Yes sir.
Q How long have you known him? A To the best of my recollection, he came there in the fall of 1868.
Q Was he there when you returned? A No sir, I come in the spring.
Q How far did he locate from where you are living? A About two miles from where I live.
Q Where has he lived since that time? A Ever since I knew him to come there.
Q Have you lived at or near the place since that time? A Yes sir.
Q You came as I understand you on Big Cabin in the spring of 1869?
A Yes sir.
Q And sometime after that William Tucker came into the locality and located in about two miles of where you have lived? A Yes sir.
Q And you and he have lived there that distance apart since that?
A Yes sir.
Q You didn't know William Tucker before the war? A No sir, not until he come there.

BY LOUIS T. BROWN:

- Q Were you in the neighborhood of where you now live before William Tucker? Who came to that neighborhood first, you or William Tucker? A I come with my uncle, I come in the spring and to the best of my knowledge he come in the fall or winter.

Q Do you know where he came from? A No sir.
Q You know nothing then of his whereabouts until after 1866?
A No sir.

W I T N E S S E X C U S E D .

Mr. Davenport: The representative of the Cherokee Nation most humbly move the Commission to continue this case until March 8, 1906, on the ground of newly discovered evidence which they were not in possession of and could not learn of until the 7th of February, 1906. They believe they believe they can show by the newly discovered evidence that the principal applicant in this case did not return to the Cherokee Nation until the fall of 1868. They further state in their motion that this is not made for delay but in order to secure the facts, if possible, and that the information upon which they base their motion is information obtained from the witness who is present today from other parties in conversation after he had been subpoenaed as a witness.

By Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to impeach the reputation of L. D. Daniels and Luster Foreman, and for the further reason that this application was made on the 16th day of May, 1901, and that the Cherokee Nation has had since that time to secure testimony tending to disprove the right of the applicant to be enrolled as a Cherokee freedman; that the case was continued on the 25th day of January, 1906, until this day and the Cherokee Nation was given an opportunity, and has had since that time to get the testimony that they now say they can produce.

On Behalf of the Commissioner: On account of the character of the testimony offered in rebuttal by the applicants on January 25, 1906, and in order that the present hearing before this office may be a finality in this case, the motion of the Attorney for the Cherokee Nation will be granted, and the case continued until Thursday, March 8, 1906, at nine o'clock A. M.

By Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 9th day of February, 1906.

Myron White

Notary Public.

MISSIONER TO THE FIVE CIVILIZED TRIBES

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COMMISSIONER

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., APRIL 4, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicant, Louis T. Brown.

For Cherokee Nation, L. B. Bell and J. S. Davenport.

ON BEHALF OF THE COMMISSIONER:

The records of this office show that on February 8, 1906, this case was continued, on motion of the Attorneys for the Cherokee nation, until March 8, 1906; that on February 27, 1906, on motion of the Commissioner to the Five Civilized Tribes, the case was continued to March 29, 1906, of which appointment action the applicants, their attorney, and the attorneys for the Cherokee Nation were advised on February 27, 1906, and that on March 21, 1906, by agreement between the attorney for applicant and the attorneys for the Cherokee nation, the case was continued from March 29 to April 4, 1906, at Vinita, Indian Territory.

On this April 4, 1906, the case being called, and the Cherokee nation announcing that it has no testimony to introduce, the following proceedings were had in behalf of applicants.

JULY MARTIN, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

Q What is your name? A July Martin.

Q What is your age? A About 44.

Q Post office? A Chelsea.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Were you a slave? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir, I know him.

Q About how long have you known him? A I have known him ever since I was a boy, ever since I can recollect.

Q Did you know him during the war? A No sir.

Q When and where did you first become acquainted with William Tucker? A He come to our house down on Grand River when we lived on Grand River, come down there in the fall of '66, as near as I can recollect, and camped there about three weeks and left and went on down below us, said he was coming down about Tahlequah.

Q When did you return to the Cherokee Nation? A In the spring of '66.

Q And it was the fall of the same year that you saw the applicant? A Yes sir.

Q When did you next see him? A It must have been about two or three years when he come on back moving upon Cabin where he lives now.

Q Is that in the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q You are 44 years old now I believe you say? A Yes sir.
- Q How how old were you in 1866? A I don't know how old, when we come down here I was big enough to -----
- Q Well about how old were you? A I don't have no idea how old I was.
- Q You were about 4 years old, weren't you July? A I don't know whether I was or not.
- Q Had you ever seen William Tucker before the time you saw him down there on Grand River? A If I did, I don't know it.
- Q Whom were you living with? A My father.
- Q What is his name? A Aaron Martin.
- Q What time of the year was it you saw William Tucker down there? A I don't know just exactly, it was in the fall.
- Q Give me some reason for knowing it was in the fall? A Well we had done laid by corn, and it was along after that when he come to our house.
- Q Had you helped cultivate a crop that year? A Yes sir.
- Q And you were done laying by corn? A Yes sir.
- Q Did you have any roasting ears? A Yes sir.
- Q The corn was still in roasting ears? A Yes sir.
- Q Had you begun picking cotton? A Hadn't commenced raising raising cotton then.
- Q Had you had any frost? A I don't recollect whether there was any frost or not.
- Q How much of a corn crop had you made that year? A I don't know how much.
- Q You helped work it? A Yes sir.
- Q Can't you remember how much you cultivated that year? A No sir.
- Q Can't you remember how much your father cultivated? A No sir, we never had many acres, just put in a little piece.
- Q On whose place did you make the corn in 1866? A Arley Hicks' place.
- Q What side of Grand River was this side located? A It was on the west, end of Lynch's Prairie.
- Q That was there between Grand River then and Lynch's Prairie?
- Q It was right in the edge of Lynch Prairie and right close to the river bottom.
- Q I say it was right in the end of the Prairie and the edge of the bottom? A I say it was right close to the river bottom.
- Q What post office is that near now? A I don't know what post-office is near there now, I haven't been down there for a good while.
- Q Hicks' farm is where you saw William Tucker? A Yes sir.
- Q Who all were with him at that time? A Joe was with him, and Steve Vann was with him. Joe Davis was with him, and I believe there were two girls with him.
- Q Well they had how many wagons? A One wagon I think was all.
- Q You know don't you? A Well there was two wagons with Uncle Joe Rogers'.
- Q Have you ever testified in this case before? A No sir.
- Q When did you first tell William Tucker that you remember seeing him down there in 1866 on Grand River? A I never told him, he come and asked me if I recollect seeing him.
- Q Well when was that? A That was yesterday.
- Q Now you haven't talked with any one about having seen him down there on Grand River in 1866 until yesterday? A No sir.
- Q And he came and talked with you, and you remember seeing him down there in 1866, 40 years ago? A Yes sir.
- Q And you remember all about it? A Yes sir, I remember all about it.

- Q Is your father living or dead? A He is dead.
- Q Any of the rest of your family living that is living down there now? A Just Aunt Sarah Ann, one of my aunts.
- Q You don't know where he went? A No sir.
- Q You didn't see him any more for two or three years? A Two or three years, yes sir, and he come on back by our place.
- Q Can you remember whether you were out of the Indian Territory during the war or not? A Yes sir.
- Q Did you go north or south? A Went north.
- Q When did you say you returned? A In the spring of '66.
- Q What time in the spring? A I don't know exactly what time it was.
- Q Well was the leaves put out or grass begin to grow when you came? A Yes sir.
- Q Had they commenced planting crops around anywhere? A Yes sir.
- Q Now whose place did you pass that you saw them planting crops as you came back? A I don't know whose place.
- Q Well you remember seeing William Tucker? A Yes sir, I remember seeing him but I don't remember everybody's place I passed.
- Q Give me some one? A Well I don't know.
- Q Can't you remember a single one who was planting crops that you passed as you came down? A No sir.
- Q How did it happen that you came down in the spring of 1866? A I don't know.
- Q You came down for the purpose of establishing your right in the Cherokee Nation under the Treaty? A I never did know nothing about that Treaty.
- Q Not in your life? A Not until here recently.
- Q You were not an applicant before the Wallace roll as a Cherokee freedman? A Yes sir.
- Q July what year was the Wallace roll made? A I don't know.
- Q What year was the Kern-Clifton roll made? A I don't know that.
- Q What year was the Dixon payment? A I don't know that.
- Q Were you living in the Territory then? A Yes sir.
- Q It has been a very much shorter time since the Wallace roll was made than 1866, hasn't it? A Yes sir.
- Q And it has been a much shorter time since the Kern-Clifton roll was made than 1866, hasn't it? A Yes sir.
- Q Why is it you can't remember those years the same as the year you saw William Tucker? A They always said it was '66.
- Q Do you mean to tell this Commission that in your application for enrollment you stated that you and your father came back in the spring of 1866? A Yes sir.
- Q You are positive of that fact? A Yes sir.
- Q Now I will ask you if it is a fact that your father had returned to the Cherokee Nation, planted, cultivated and had a crop of corn in Roastingear before you saw William Tucker in the Cherokee Nation? A Yes sir.
- Q Your father had returned and you with him to the Cherokee Nation, had planted a crop and cultivated it and it was in Roastingear in other words it was in the fall following the spring he had planted the crop when you now claim to have seen William Tucker? A Yes sir, we made a crop before I saw William Tucker.
- Q Which one of the Steve Vanns was with William Tucker when he come back? A This colored fellow around here in town they call Steve Vann.
- Q The one that lives around somewhere here in the neighborhood of Bluejacket or Vinita now? A Yes sir.

W I T N E S S E X C U S E D .

DANIEL SANDERS, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Daniel Sanders.
Q Your age? A 61 going on 62. I was born in 1844.
Q Your post office? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant, William Tucker? A Known him ever since I could talk.
Q Was he a slave? A He was.
Q When did you return to the Cherokee nation after the close of the war? A In 1866.
Q After your return did you see the applicant, William Tucker?
A Yes sir, I did.
Q When and where was the first time you saw him? A I saw him down there on Spring Creek.
Q When was that? A That was along in May, 1867.
Q What were you doing on Spring Creek, 1867? A I come from Fort Gibson up there to,--what was that Rees name---Henry Rees, and come over there and stopped in that neighborhood there.
Q You had known the applicant prior to that time? A Yes sir.
Q Recognized him when you saw him? A Well I don't know about that, he was the re, had in a crop.
Q Well I say you recognized him? A Yes sir, I recognized him.
Q Has he resided in the Cherokee nation ever since you saw him on Spring Creek in 1866? A Ever since so far as I know.
Q You have seen him from time to time in the Cherokee Nation?
A Yes sir.

BY MR. DAVENPORT:

- Q You don't know anything about when he returned to the Cherokee Nation of your own knowledge? A Well I don't know just exactly the date.
Q The first time you ever saw him in the Cherokee Nation after the war was in May 1867? A May, 1867.

W I T N E S S E X C U S E D .

JULY MARTIN RECALLED:

BY MR. DAVENPORT:

- Q How many crops did you make on the Hicks place after you come back? A We made one.

W I T N E S S E X C U S E D .

JOE DAVIS, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Joe Davis.
Q Your age? A 61.
Q Your post office? A Vinita.
Q Were you present when July Martin and Daniel Sanders gave their testimony in this case? A Yes sir.

ON BEHALF OF THE COMMISSIONER TO MR. DAVENPORT:

Q Do you desire to object to the introduction of the testimony of this witness on the ground that the rule in force with reference to witnesses who were going to testify leaving the fall when the other witnesses were examined?

MR. DAVENPORT:

We object for the reason that the witness had an opportunity to hear the other testimony.

ON BEHALF OF THE COMMISSIONER;

The testimony of the witness will be taken at this time, and the regularity of the taking of the same will be passed on.

BY LOUIS T. BROWN of witness:

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir.

Q How long have you known him? A All my life.

Q Do you know when the applicant returned to the Cherokee Nation after the close of the Civil war? A Yes sir.

Q When? A In the fall of '66.

Q Has he had a continuance residence in the Cherokee Nation since that date? A He has sir.

BY MR. DAVENPORT:

Q You say you know when he returned Joe? A Yes sir.

Q Where did he go during the war? A I don't know, I think he went north, he went up in Kansas somewhere.

Q You say you knew him all your life? A All except about two or three years during the war.

Q Where were you and he during the war? A I was in the Cherokee Nation during the war.

Q And the war closed, where were you? A At Fort Gibson.

Q In 1866 where were you? A At Fort Gibson part of the time and part of the time on Spring Creek.

Q It is not a fact as stated by July Martin that you returned with him to the Cherokee Nation? A It is a fact that I went up there and he done returned, and probably had been here a month or two. He had been down to Gibson gathering up us children.

Q Are you related to him? A His brother is my brother. My mother died when I was small, and old man Tucker raised me, my rights based on his rights.

Q Now with whom were you living at Fort Gibson when William Tucker came and got you? A With Uncle Fred Davis and Julie Martin.

Q What Cherokee or colored people or white people lived near you? A I couldn't say, couldn't tell you, there was lots of them. I knowed pretty near everybody down there.

Q Where were you and Tucker going when you came from Fort Gibson up to where Martin was living? A We were coming up to Uncle Fred Martin's, I think, hunting a daughter of his.

Q You knew where you were going? A Well I think so, it has been a long time.

Q You say you came up there in the fall of the year? A Yes sir, I think it was.

Q And they had made a crop, Aaron Martin's folks had when you got up there? A Yes sir, I think they had.

Q Well you can remember what time of the year it was? A Yes sir, it was sometime in the fall.

Q Couldn't you tell whether they had a crop growing or whether they were gathering crops? A No sir, I don't.

Q You remember you were up there with Tucker? A I do.

- 8-
- Q You don't know whether they were gathering corn or picking cotton?
 A I knew they were not gathering corn and they were not picking cotton.
- Q Was it hot weather or cold weather? A It was getting along in the fall.
- Q Was it cold enough to have an overcoat? A No sir, we didn't have no overcoats in this country them days.
- Q Tucker had teams and wagons? A Yes sir, had a span of little old ponies and two or three other ponies he fetched down from Kansas with him when he come.
- Q Do you know what point he came from Kansas? A I think he had been up around Manhattan.
- Q Did he tell you this? A No sir, he told me since.
- Q Did he tell you whether he ever lived any other place in Kansas?
 A I think he was up about Fort Scott.
- Q Did he tell you that? A I don't know whether he did or not.
- Q You don't mean to say he come and got you and raised you and didn't tell you where he was in Kansas? A He said he was at Manhattan.
- Q And Fort Scott? A Yes sir, I think he did.
- Q Did he say anything about being at Wapleton? A Yes sir, I believe he did.
- Q Did he say anything about being at Burlington? A Yes sir, I think he did.
- Q As a matter of fact he did tell you he lived in and around Burlington during the war? A No sir, I don't know whether he did or not.

WITNESSES EXCUSED.

Mr. Davenport:

The representatives of the Cherokee Nation move that the case be continued for further hearing at Muskogee, Indian Territory, April 12, 1906, in order that the nation may be able to put in rebuttal testimony against the testimony introduced today by the applicant of July Martin and others, it being testimony introduced that they could not anticipate, and that they are not now in a position to produce it today.

Louis T. Brown:

The applicant desires to state that this case was remanded for the purpose of giving the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, that the record shows several weeks ago they introduced several witnesses along that line, and that this case has been continued twice since then on motion of the Attorneys for the Cherokee Nation, and the applicant now objects to it being continued again. That the Cherokee Nation knew that the time the original application was made the applicant would contend that he was a slave of a citizen of the Cherokee Nation and that he returned to the Nation within the time prescribed by the Treaty; that they have had since that time to secure testimony tending to disprove that fact, and I desire to further state that it is my understanding when this case was sent up here that it would be closed today, and for these reasons I certainly object to the case being left open and insist that it be closed today.

Mr. Davenport:

If the applicants had confined themselves to the proposition of the impeachment testimony for which this case was remanded, and had not today brought in testimony upon the original question, the Cherokee nation would have been in a position to have closed today, and would have been ready to have closed, but instead of doing so today they introduced testimony upon the original question of the return of the applicant, upon which the Cherokee nation had made no preparation, thinking that question was closed.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for the applicant will be noted and the motion of the Attorney for the Cherokee nation for continuance will be granted.

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Geo. H. Leslie, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Leslie

Subscribed and sworn to before me this 6th day of April, 1906.

B. P. Rasmussen
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., APRIL 12, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee Nation, J. S. Davenport.

It appears from the records of this office that the hearing in this case was continued from April 4, 1906, until April 12, 1906, on motion of the representatives of the Cherokee nation, at which time the following proceedings were had.

MR. DAVENPORT:

I want to introduce the testimony, in the William Tucker case, of Aaron Martin in his application, D 235, also of Andy Frye and Filmore Hicks, for the purpose of contradicting the testimony given by July Martin and others at the last hearing, as to when William Tucker was at Aaron Martin's house, it being testified at that time by July Martin that they had returned and made a crop and the corn was in roastingear. This testimony offered shows when Aaron Martin returned.

The representatives of the Cherokee Nation also desire to introduce the testimony of July Martin taken in his own application for enrollment, Freedman D 348, for the purpose of contradicting his testimony given in the case now being heard. I desire also to introduce the testimony of Allen Lynch for the purpose of contradicting himself.

LOUIS T. BROWN:

The applicants object to the introduction of the testimony of Aaron Martin for the reason that Aaron Martin has never been called as a witness in this case, and the applicant has not had the opportunity to cross examine him in his own behalf. The applicant objects to the testimony of Filmore Hicks, Andy Frye and Allen Lynch being made a part of the record in this case for the reason that the three last named persons are living and could appear before the Commissioner in person and give their testimony, at which time the applicant would have an opportunity to cross examine them in his behalf. That when the Commissioner sat at Vinita April 4, 1906, Allen Lynch was present at that time and testified in another case and the Cherokee Nation could have taken his testimony at that time relative to this matter.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for applicants will be noted, and the request of the Attorneys for the Cherokee Nation will be complied with and the testimony considered for what it is worth.

The Attorneys for applicants and Cherokee Nation announce that they have no further testimony to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

-----oOo-----

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 14th day of April, 1906.

B. P. Rasmus
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FREE CIVILIZED TRIBES.
VINITA, I. T., MAY 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee freedmen, he being sworn and examined by Commissioner T. B. Needles testified as follows:

- Q What is your name? A Aaron Martin.
Q How old are you Aaron? A I guess about 67 or 68
Q What is your post office address? A Chelsea.
Q What district do you live in? A Coowessawcoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

- Q Did you receive your money known as the Cherokee Strip money?
A Yes sir.

The Ferns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant is found on page 116, No. 2939, Aaron Martin, Delaware District.

- Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks, and Andrew Frey.

Aaron Martin--2.

- W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
- Q Are you a blacksmith? A No sir.
- Q Another Martin is a blacksmith? A Yes sir.
- Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
- Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
- Q About what time did you come down to the Cherokee Nation after the war--what time in '66? A It was some time in the fall.
- Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:

- Q Is your name Andrew Frey? A Yes sir.
- Q How old are you? A 66.
- Q What is your post office? A Vinita.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q Freedman? A Yes sir.
- Q Do you know Aaron Martin? A Yes sir.
- Q How long have you known him? A Why, I don't know, sir, just exactly how long, ever since we were boys.
- Q Was he a slave? A Yes sir.
- Q To whom did he belong? A He belonged to John Martin.
- Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
- Q Where? A He was over here across the river part of the year 1866.
- Q In the Cherokee nation? A Yes sir.
- Q Did he go out of the Cherokee Nation during the war? A Yes sir.
- Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
- Q Did he return? A Yes sir.
- Q In what year? A In '66.
- Q Are you any relation to him? A No sir.
- Q Was he married at that time? A Yes sir.
- Q Was his family with him? A Yes sir.
- Q Did his family return with him? A Yes sir.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A I belonged to Mary Clark.
- Q Were you in Kansas with Aaron Martin? A Yes sir.
- Q Did you return with him? A Yes sir.
- Q Have you known Aaron Martin well since that time? A Yes sir.
- Q Has he lived in the Cherokee nation since? A Yes sir.

- W. W. Hastings: You say he come back with you? A Yes sir.
- Q Who else come along? A There were lots of others, I don't recollect now who all come along; there was a big crowd of us.
- Q Well, name some of the rest of them? A Peter Williams.
- Q Anybody else? A Toke Sornisher, Jake Martin's family.
- Q Anybody else? A I don't know how else.
- Q That is all you can remember? A Yes sir.
- Q What time in the year did he come back? A He come back--we got back over to Dr. Thompson's place the 3rd of October, '66.
- Q Any colored folks there when you got there? A No one at all.
- Q You are positive about that are you? A Yes sir, no one at all there.
- Q That was in October, '66? A Yes sir.
- L. E. Bell: Who got back there first, you or Judge Daniels family?
- A No.

Aaron Martin--3.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

- Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your post office address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '65.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
Q W. W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q Did you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67?
A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy elder than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner: Did you draw money for Frances and Neely? A Yes sir.
of Applicant.

The Kerns Clifton roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:

Page 23, No. 568, Frances Adams, Delaware District.

Page 23, No. 569, Nealey Adams, Delaware District.

Adams Martin--4.

- Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant's wife is found on page 216, No. 44, Cora Adam, Delaware District.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) M. D. Green
Notary Public.

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that same is a full true and correct copy of the original transcript.

(Signed) Lucy M. Bowman.

Subscribed and sworn to before me this 10th day of March, 1906.

(Signed) Chas. E. Webster
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy, and that same is, in part, a correct copy of ~~the~~ a copy of the original transcript.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Rasmus
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

Cher.F.D.-348.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 23, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of JULY MARTIN, ET AL., as Cherokee freedmen.

Appearances:

W. W. Hastings and L. B. Bell, Attorneys for Cherokee Nation.

Witnesses placed under the rule.

JULY MARTIN, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: State your name? A July Martin.
Q How old are you? A I guess I must be about forty-two, I reckon, or forty-three. I don't know for certain.
Q Were you born before the commencement of the war?
Q Yes sir, that is what they said I was.
Q What is your post office? A Chelsea.
Q Who was your father? A Aaron Martin.
Q Give me the name of your mother? A Queen Martin.
Q Were you the slave of a Cherokee citizen at the commencement of the war? A Yes sir.
Q Who did you belong to? A Belonged to John Martin.
Q He was a Cherokee citizen, was he? A Yes sir.
Q Were you taken out of the Cherokee nation during the rebellion?
A Yes sir.
Q Where did you go? A Went to Kansas.
Q When did you come back? A They said it was in '66, and Of course I don't know anything about when it was, I was too small to know anything about it when we came back. Father brought me back with him when he came.
Q You don't remember anything about it yourself? A No sir.
Q Where were you living when you first remember? A Was living on what they call the Cap. Hicks place.
Q In what Nation? A Cherokee Nation.
Q Have you lived in the Cherokee Nation ever since you can remember?
A Yes sir.
Q You applied for your wife and your children, Queen, Carrie, Annie, Wesley and Betsy? A Yes sir.
Q Are they all still living? A Yes sir, they are all still living.
Q But your wife is dead? A Yes sir, she is dead.

AL. LYNCH, being first duly sworn, testified as follows on behalf of applicants:

BY COMMISSION: What is your name? A Al Lynch.
Q How old are you? A Sixty-three years old.
Q What is your post office? A Vinita.
Q Do you know July Martin? A Yes sir.
Q Who was his father? A Aaron Martin.
Q Give me the name of his mother? A Queen Martin.
Q Did you know Aaron Martin before the war? A Yes sir.
Q Did you know Queen Martin before the war? A Yes sir.
Q Were they both slaves of Cherokee citizens? A Yes sir.
Q Was July Martin born in slavery? A Yes sir.

Q Who did he belong to? A He belonged to - his mother belonged to Eliza Wright, and she went from Eliza Wright to John Martin, I don't know whether he owned them, or how it was, but he belonged to that outfit, that family.

Q Who did Aaron Martin belong to before the war? A John Martin.

Q Did Queen Martin belong to the same man or somebody else? A Eliza Wright raised her. She was born and raised on Eliza Wright's place, and after Aaron Martin married her, John Martin got her. They lived there together.

Q Was Eliza Wright a Cherokee citizen? A Yes sir, John Martin's sister.

Q Did Aaron Martin and Queen Martin begin living together before the war? A Yes sir.

Q Was John Martin a Cherokee citizen? A Yes sir.

Q Do you know when July Martin came back after the war? A He came back with Aaron Martin in the summer or fall of '66, down there on Grand River.

Q Who else came with him besides Aaron Martin's father? Who else came with July Martin besides his father? A Andy Frye here, and old man Squire Martin, Squire Adair, old Peter Williams, Tobe Schrimsher, and Jake Martin's family. Jake didn't come himself, but his family came.

Q Did Queen Martin come at the same time? A Yes sir.

Q Where did you first see July Martin after the war? A The first time I saw him was down here on Grand River on the Jake Thompson place.

Q What Nation? A Cherokee Nation.

Q What district was that in? A Delaware District.

Q You think that was in '66? A I know it was.

Q What time of the year? A It was along the latter part of August or the first of October, something along there, I don't just remember exactly.

Q How long did July Martin and his parents live there at that time? A They stayed there all that winter and the next spring. I don't know whether they stayed all winter, part of the winter anyway, and the next spring they moved over on the edge of Lynch's Prairie, on a place they used to call the Tucker place. I don't know how long they stayed there, but when he moved from there he moved over on Pryor Creek. He stayed there two or three years, I don't remember.

Q Were you living around in that part of the country at that time? A Yes sir.

Q Who else was living there when July Martin and Aaron Martin came down? A There was --

Q What other colored people? A There was me and Crap and Arch, Simon, Art Williams, Rowe, and Nelson Moore down here, I believe that's all.

Q You say Crap, you mean Anderson Lynch? A Yes sir, and Mose Whitmire.

Q All those people were living around there when July Martin came back? A Around in that neighborhood.

Q How long has July Martin lived in the Cherokee Nation since that time? A He has been here all the time as I know of. If he has been out I never knowed it.

MR. HASTINGS: How old was he when he came back? A Well sir, I can't tell you just how old he was. He was small.

Q Was he born before the war or during the war? A He was born before the war. If I don't make a mistake now, I think he was born on old man Knight's place, with Bob Knight's father, she was hiding up there, either born there or born at John Martin's, I am not quite sure.

Q They came back in a wagon? A Yes sir, they came back in a wagon.
 Q Do you remember whether it was July or August they came back?
 A It was in October or July, I couldn't tell you exactly the month.
 Q There is August and September now, in between those two months?
 A Somewheres along that time, it hadn't got cold weather yet.
 Q Are they related to you in any way? A No sir, no relation of mine.
 Q How far did they settle from you? A I was living on that place there that George Clark had, it is about three miles and a half or four miles from where they went to settle. They moved into Dr. Thompson's house, and after they moved over there I left that old place, left the woman on the George Clark place, and went over there and stayed with them right in the house with them.
 Q Where did July marry? A I don't know sir, about that.
 Q Did he marry in that neighborhood down there? A No sir, out west somewheres, I don't know nothing about his marriage. I don't whether he has got a wife.

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Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Wm. Hutchinson.

Subscribed and sworn to before me this 26th day of October, 1905.

(Signed) Charles H. Sawyer.
 Notary Public.

Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy from the original thereof, and that the same is, in part, a true and correct copy of the same.

Geo. H. Lesley

Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Rasmus
 Notary Public.

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications for the enrollment of:

William Tucker.....Cherokee Freedman D329
Katie Adams, et al..... Cherokee Freedmen D330
Sarah Foster.....Cherokee FreedmanD739
Malinda Beeson.....Cherokee Freedman D969

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by William Tucker for, among others, himself, the others included in said application have heretofore been disposed of, and their rights to enrollment will not be considered in this decision; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Sarah Foster for, among others, herself, the others included in said application have been heretofore disposed of and their rights to enrollment will not be considered in this decision, and by Malinda Beeson for herself. The records further show that on June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered its decision herein, granting all of said applicants the right to enrollment as Cherokee freedmen, and that said decision was duly forwarded the Department for review and decision. Thereafter on December 16, 1905 (I.T.D.10922-05), the Department, in view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, remanded said case, insofar as it granted the applications for the enrollment of said persons as Cherokee freedmen, to this office for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce witnesses to impeach witnesses who had testified in behalf of the applicants. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, January 25, February 8, April 4 and April 12, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, William Tucker, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress

of said rebellion he left the Cherokee Nation, but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation, and has since continuously resided therein. The evidence further shows that all the other applicants herein are descendants, children and grandchildren of the said William Tucker, born since 1844, and continuously resided in the Cherokee Nation from the date of their births up to and including September 1, 1902.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), the decision of the Commission to the Five Civilized Tribes rendered on June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Reeson as Cherokee freedmen should be, and the same is, hereby, affirmed.

Tame Bixby.
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 23 1907

41137

MAR

1888

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

W. M. BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

(COPY)

Tahlequah, Indian Territory, March 21, 1905.

Commission to the Five Civilized Tribes,

(Cherokee Enrollment Division),

Muskogee, Indian Territory.

Gentlemen:

I herewith return consolidated cases of

William Tucker, et al,	Cherokee F. D-329,
Katie Adams, et al,	" F. D-330,
Lucinda Whitmire,	" F. D-352,
Sarah Foster,	" F. D-739,
Malinda Beeson,	" F. D-969.

The decision, as prepared, admits 12 of the applicants, denies 3 and one is dismissed because of death.

Upon examination I am of the opinion that all of them should be denied enrollment. As to the 12 who are granted, it will be observed that not one of them is upon either of the regular rolls of 1880 and 1896. The right of the 12, as indeed all of these applicants, is derived through the father, William Tucker. He is supported by two very questionable witnesses. One of them, L. D. Daniels, whose testimony I do not consider is entitled to much, if any, weight and who appeared to be simply a professional witness, clearly indicates that he identified Tucker solely upon ^(Tucker's) his own information. He say that he knew that Tucker was the man that he met in 1866 at Ft. Gibson because "he (Tucker) told me that he was the same man I met". As to the other witness, Lester

Commission--2.

Foreman, he is notoriously unreliable and the most casual perusal of the testimony must, in my opinion, reveal all the evidences of vagueness and unreliability. It will be observed that some of Tucker's children married people who were on the 1880 roll and who were undisputed as to their citizenship. In no instance, however, has any one of them been admitted with the other members of the family upon either that or the 1896 roll. These facts, to my mind, constitute clear and satisfactory evidence that none of these parties are entitled to enrollment.

I suggest that the cases be rewritten and that all of them be rejected upon the lines here stated. If the other Commissioners do not agree with me in this view, then I beg to vote in the negative and have the case referred to the Department for its decision.

I am not entirely clear, but I presume that a negative vote of this character should be considered in the nature of a protest or an appeal. I trust, however, that a careful examination of the testimony will lead to the same conclusion with the other Commissioners that I have formed. I see that none of the Commissioners have so far concurred in the decision as at present written.

Respectfully,

MH
Enc. H-25

(Signed) C. R. Breckinridge.
Commissioner.

(COPY)

I have signed original decision--
witnesses for applicant have not been
impeached--and no effort on part of nation
either to impeach or rebut their tes-
timony----I believe Daniels told the truth-
no Freedman in the territory had better
means of knowing these people than he-
-It is true that he was a witness for many
of them-he is an intelligent man-and in the
work of enrollment of Freedmen often swore
adverse to applicant-he was the dispenser
of government rations to these people-and
had an opportunity of knowing them-in all
testimony given by him-he appeared to have
a very clear recollection as to past events-

T. B. H-----

Cherokee Freedmen

D-739.

Muskogee, Indian Territory, June 28, 1905.

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting, among others, the application for your enrollment as a Cherokee freedman, Commissioner C. R. Breckinridge dissenting. There has heretofore been furnished your attorney, Louis T. Brown, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. 8-70
Register

(SIGNED).

Wm. D. Kirby

Chairman.

Cherokee Freedmen

D-329-739.

Muskogee, Indian Territory, June 28, 1905.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., and rejecting the application for the enrollment of William Banks, et al., as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the application for the enrollment of the said William Tucker, et al. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED) *Tame Dixby.*

Chairman.

Incl. S-71

Register

COPY.

Cherokee Freedmen

D-529, et al.

Muskogee, Indian Territory, June 28, 1905.

Beil, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitacre, as Cherokee freedmen, Commissioner C. R. Freckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED).

James Pickens.

Chairman.

Incl. 8-72

Cherokee Freedmen
B-229, et al.

Muskogee, Indian Territory, June 28, 1905.

The Honorable,

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al., as Cherokee freedmen, including the Commission's decision dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitmire, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. B-73

Wm. H. Hixby.
Chairman.

Through the

Commissioner of Indian Affairs.

Land
50928-1905

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. August 28, 1905

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commission to the Five Civilized Tribes, dated June 28, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and by Jerry Foster for his wife, Sarah Foster.

June 28, 1905, the Commission decided adversely to William, Irene and Virdie Banks and Lucinda Whitmire and favorably to all the other applicants.

The record shows that all of the applicants, except William Tucker, William, Irene and Virdie Banks were born since the beginning of the war of the rebellion and claim their rights to enrollment as Cherokee Freedmen by reason of being descendants of William Tucker, who at the beginning of the war was the slave of a Cherokee citizen; that during the war he removed to the State of Kansas but returned to the Cherokee Nation on or before

February 11, 1867, and has resided continuously in the nation up to and including September 1, 1902. All of the other applicants have resided continuously since birth up to and including September 1, 1902, except William, Irene and Virdie Banks and Lucinda Whitmire. William, Irene and Virdie Banks were born since 1866 and are the children of one Mary Banks who, at the beginning of the war of the rebellion was the slave of a Cherokee citizen and who, during the war continued to reside in the Cherokee Nation; that about the year 1874 Mary Banks removed to Kansas where she married a citizen of that state and continued to reside therein until the date of her death in 1894.

It is not shown that she at any time, possessed any property in the Cherokee nation. William, Irene and Virdie Banks were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their mother.

None of the applicants is identified on the 1880 authenticated Cherokee roll or the 1896 Cherokee Census roll.

The record further shows that Lucinda Whitmire died prior to September 1, 1902.

In view of the record the approval of the Commission's decision adverse to William, Irene and Virdie Banks and Lucinda Whitmire and favorable to all the other applicants is recommended.

Very respectfully

F. S. Leupp

Commissioner

C. J. W. (W)

(C O P Y)

DEPARTMENT OF THE INTERIOR
WASHINGTON

J. P. Jr.
Y.P.
FHE

D. C. 56716-1905
I.T.D.-10922-1905

December 16, 1905

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory,

Sir:

June 28, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for enrollment as Cherokee freedmen, of William Tucker, for himself and his three minor grandchildren, William, Irene, and Virdie Banks; of Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordelia Adams; of Zeke Whitmire for his wife Lucinda Whitmire; and of Jerry Foster for his wife, Sarah Foster, including its decision of the same date, which was adverse to William, Irene and Virdie Banks, and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants.

Reporting August 26, 1905, the Indian Office recommends that the decision of the Commission be approved. A copy of its letter is inclosed.

It appears from the record that all of the applicants except William Tucker, and Mary Banks, deceased, mother of William,

Irene and Virdie Banks, were born since the beginning of the Civil war, and claim their rights to enrollment as Cherokee freedmen through William Tucker, the principal applicant. It is alleged that William Tucker was the slave of George Whitmire, a Cherokee citizen; that during the war he removed to Kansas, but returned to the Cherokee nation on or before February 11, 1867, and has resided continuously in the Cherokee Nation up to and including September 1, 1902.

The Department believes that the Commission's decision in so far as it is adverse to the applicants, William, Irene and Virdie Banks, and to Lucinda Whitmire, is correct, and as to these applicants it is hereby affirmed.

It is shown by the record that William Tucker testified in his own behalf. He is supported by the testimony of J. D. Daniels and Lester Foreman. Commissioner Breckinridge questions the reliability of the testimony submitted by these witnesses.

In view of the opinion expressed by Mr. Breckinridge on this testimony, the Department considers it advisable to remand the case in order that the nation may have an opportunity to impeach these witnesses. The record is therefore returned herewith for a rehearing and a readjudication, except as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire.

You are requested to advise the principal applicants, informing them of the reason for this rehearing, and also to notify the nation.

Respectfully,

(Signed)

THOS RYAN
First Assistant Secretary

2 inclosures .

Cherokee Freedmen
D 329 et al

COPY.

Muskogee, Indian Territory, January 6, 1906

Louis T. Brown,

Attorney for William Tucker et al.

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedmen enrollment case of William Tucker et al., you are hereby advised that this office is in receipt of Departmental letter of December 16, 1905, in which the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, rejecting the application for the enrollment of William, Irene and Virdie Banks, and dismissing the application for the enrollment of Lucinda Whitmire as Cherokee freedmen, and granting, Commissioner Breckinridge dissenting, the applications of William Tucker, Katie Adams and her minor children and Sarah Foster, is affirmed as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire, and the case remanded as to the other applicants, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

Louis T. Brown-2.

You are, therefore, hereby notified that the Cherokee Nation has been this day advised that it will be permitted to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, January 25, 1905, and submit such testimony as it desires as to the reliability of said L. D. Daniels and Lester Foreman. You are further advised that the principal applicants in these cases have also this day been notified that they will be permitted to appear on that day and introduce, in rebuttal, such testimony as they desire.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

(SIGNED).

Tams Bixby.
Commissioner

Incl. B-4

LMB

Cherokee freedman
D 329 et al

COPY.

Muskogee, Indian Territory, January 6, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation ,
Muskogee, Indian Territory.

Gentlemen:

In connection with the Cherokee Freedmen enrollment case of William Tucker, et al., you are advised that this office is in receipt of Departmental letter of December 16, relative to the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, adverse to William, Irene and Virdie Banks and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants, and in which said decision is affirmed as to William, Irene and Virdie Banks and Lucinda Whitmire, and the case remanded to this office, in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony of L. D. Daniels and Lester Foreman submitted on behalf of applicants, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

You are, therefore, hereby notified that you will

be permitted to appear before the offices of the Commissioner to the Five Civilized Tribes at nine o'clock A. M., on Thursday, January 25, 1906, and introduce such testimony as you desire as to the reputation for truth and veracity of said L. D. Daniels and Vester Foreman. The principal applicants in these cases will also be permitted to appear on that date and introduce, in rebuttal, such testimony as they desire in these cases.

There is inclosed herewith for your information a copy of Departmental letter referred to.

Respectfully,

MINNEB

Tame Bixby.
Commissioner

TM

Incl. B-5.

Cherokee Freedmen
D 739

COPY.

Muskogee, Indian Territory, January 6, 1906

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

In connection with your application for enrollment as a Cherokee freedman, you are advised that this office is in receipt of Departmental letter of December 16, in which the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting, Commissioner Breckinridge dissenting, your application for enrollment as a Cherokee freedman, is remanded to this office in view of the opinion expressed by Commissioner Breckinridge as to the reliability of the testimony submitted in your behalf by L. D. Daniels and Lester Foreman, in order that the Cherokee Nation may have an opportunity to impeach those witnesses.

You are, therefore, hereby notified that the Cherokee Nation has this day been notified that the Cherokee Nation has this day been notified that it will be permitted

Garah Foster-2.

to appear before the office of the Commissioner to the Five Civilized Tribes at nine o'clock A. M. on Thursday, January 25, 1906, and introduce such testimony as it desires relative to the reliability of said L. D. Daniels and Lester Foreman. You will also be permitted to appear on that date and introduce in rebuttal such testimony as you may desire.

Respectfully,

SIGNED

Tams Dixby.

Commissioner

Register.

LMB

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. GL-90.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, January 30, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, taken at Muskogee, Indian Territory, on January 25, 1906.

Respectfully,

Incl. GL-91.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-20.
GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 9, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, on February 8, 1906, in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-21.
GHL

Acting Commissioner.

Cherokee
F D 739

Muskogee, Indian Territory, February 27, 1906.

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of yourself has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 27, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee
F D 329 et al.

Muskogee, Indian Territory, February 27, 1906.

Hell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that on motion of the Commissioner the hearing in the Cherokee freedman enrollment case of William Tucker, et al., has been continued from March 8, 1906, to March 29, 1906, at nine o'clock A. M.

Respectfully,

GHL

Acting Commissioner.

Cherokee Freedmen

COPY.

D-739.

Muskogee, Indian Territory, March 21, 1906.

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

Referring to this office letter of February 27, 1906, you are advised that, by agreement between your attorney, Louis T. Brown, and the attorneys for the Cherokee Nation, the hearing in your Cherokee freedmen enrollment case has been continued from March 29, to Wednesday, April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

SIGNED.

Wm. S. Seale
Acting Commissioner.

LS

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, March 21, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are advised that, by agreement between yourself and the attorneys for the Cherokee Nation, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

SIGNED:

Wm. H. Hall
Acting Commissioner.

LS

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, March 21, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are advised that, by agreement between yourselves and Louis T. Brown, attorney for applicants, the hearing in the Cherokee freedmen enrollment case of William Tucker, et al., has been continued from March 29, 1906, to April 4, 1906, at nine o'clock A. M., at Vinita, Indian Territory.

Respectfully,

LS

(SIGNED)

Wm. J. Brown
Acting Commissioner.

Cherokee Freedmen

D-329-330-739.

Muskogee, Indian Territory, April 11, 1906.

Louis T. Brown,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith copy of supplemental proceedings had at Vinita, Indian Territory, on April 4, 1906, in the Cherokee freedmen enrollment case of William Tucker, et al.

Respectfully,

Incl. S-27

Acting Commissioner.

Cherokee F. D.
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Frey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-32.
GHL

Acting Commissioner.

Cherokee F D
329, 330, 739.

Muskogee, Indian Territory, April 23, 1906.

Louis T. Brown,

Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, April 12, 1906.

There is also inclosed a copy of the testimony of Aaron Martin, Andrew Frey, and Filmore Hicks, taken at Vinita, Indian Territory, on May 10, 1901, in the matter of the application for the enrollment of Aaron Martin, et al., as Cherokee freedmen, and a copy of the testimony of July Martin and Al Lynch taken at Vinita, Indian Territory, on September 23, 1903, in the matter of the application for the enrollment of July Martin, et al., as Cherokee freedmen, which has been filed with and made a part of the record in this case.

Respectfully,

Incl. GL-31.
GHL

Acting Commissioner.

Muskogee, Indian Territory, January 23, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al. (D 329 et al), as Cherokee Freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission, rendered June 26, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cera, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen.

On December 16, 1905 (I.T.D. 10922-1905), the Department remanded this case to this office for rehearing and readjudication.

There is also enclosed a schedule containing the names of the Freedmen embraced in this decision, and

Secretary-2

in the event of the approval of the Commissioner's decision enrolling the applicants in this case, it is respectfully recommended that the schedule, which is Numbers 4207 to 4218, inclusive, be approved by the Department. This action is recommended in view of the provision of the Act of April 26, 1906 (34 Stat., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The names of the persons embraced in this case here follow in the same numerical order as on the schedule:

No.	Name.
4207	Tucker, William
4208	Adams, Katie
4209	Adams, Albert
4210	Adams, George Edward
4211	Adams, Elias
4212	Adams, Walter

Secretary-S-

No.	Name.
4213	Adams, Cora
4214	Adams, Elmer
4215	Adams, Ella
4216	Adams, Cordelia
4217	Foster, Sarah
4218	Boesen, Malinda

Respectfully,

**Through the
Commissioner of Indian Affairs.**

Commissioner

Encl. B-84

COPY

LAND
9084-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith report of Commissioner Bixby, dated January 23, 1907, forwarding the record of proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission rendered June 28, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Reason, as Cherokee freedmen.

The Department, on December 16, 1905 (I.T.D.10922-1905), remanded this case to the office of the Commissioner for rehearing and readjudication.

There is also enclosed a schedule containing the names of the freedmen embraced in the enclosed decision, and in the event of the approval of the decision enrolling the applicants herein, Commissioner Bixby recommends that the schedule, numbers 4207 to 4218, inclusive, be approved by the Department. This action is

recommended in view of the provisions of the Act of April 26, 1906 (34 Stat. L., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The record shows that applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by William Tucker; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; and by Sarah Foster and Malinda Beeson. On June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered a decision granting all the applicants the right to enrollment as Cherokee freedmen. The decision of the Commission was forwarded to the Department with Office letter of August 26, 1905.

In view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, the Department, on December 16, 1905 (I. T. D. 10922-1905), remanded the case to the office of the Commissioner to the Five Civilized Tribes for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce testimony to impeach witnesses who had testified in behalf of the applicants.

Pursuant to Departmental directions, further proceedings were had relative to the application of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, January 25 and

February 8, at Vinita, Indian Territory, April 4, and at Muskogee, April 12, 1906.

The evidence shows that the applicant herein, William Tucker, was a slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of the war he left the Cherokee Nation, but returned thereto prior to February 11, 1867, and has since continuously resided therein.

The evidence further shows that all of the other applicants herein are descendants, children and grandchildren, of William Tucker, were born since 1866, and continuously resided in the Cherokee Nation from the date of their birth up to and including September 1, 1902.

In view of the facts as herein set out, and in accordance with the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat. ., 495), the Office concurs in the decision of Commissioner Bixby that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson, as Cherokee freedmen, be affirmed.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EBM-EH

J.F.Jr.

D.C.9090-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON. ILL.

I.T.D.2388-1907.

L.R.S.

February 9, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 23, 1907, you transmitted the record in the matter of the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cera, Elmer, Ella, and Cordilia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen, including your decision of the same date, affirming the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, granting the applications for the enrollment of said applicants.

In connection with this case you transmitted a schedule containing the names of the freedmen embraced in this decision, and in the event of the approval of your decision you recommend that said schedule be approved by the Department.

Reporting February 4, 1907 (Land 9084), the Indian Office concurs in your decision that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting said applications, be affirmed. A copy of its letter is inclosed.

The Department considers your decision correct and it is hereby affirmed.

-2-

The schedule transmitting the names of the freedmen embraced in this decision has been approved this day, and two copies are inclosed for appropriate disposition.

The original of said schedule, together with the other papers in the case, has been sent to the Indian Office for its files.

Respectfully,

Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

3 inc. and 3 to Ind. Of.

V V
D.C. 10003-1907.

JFJR

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

O.K.

I.T.D.
3186-1907.
LRS

February 16, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

On February 13, 1907 (Land 11764), the Indian Office transmitted a communication from W. W. Hastings, attorney for the Cherokee Nation, dated January 31, 1907, enclosing a protest of the Cherokee Nation against the enrollment of William Tucker et al., as Cherokee freedmen.

You are advised that on February 9, 1907, the Department considered this application and affirmed your decision of January 23, 1907.

The protest has been examined, and there appears to be no reason therein which would warrant further consideration of the case. The protest is returned for the files of the Indian Office.

The papers in the case and a carbon copy hereof are returned for the files of the Indian Office.

Respectfully,

3 inc. to Ind.Of.

Signed, Thos Ryan

AFMc
2-18-07

First Assistant Secretary.

Cherokee F
1550

Muskogee, Indian Territory, April 18, 1907.

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, February 9, 1907, and your name placed upon a schedule of Cherokee freedmen and approved by the Department on said date.

Respectfully,

Commissioner.

LMC

Cherokee F
1849 et al.

Muskogee, Indian Territory, April 15, 1907.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-2
LMC

Cherokee F
1849, et al.

Muskogee, Indian Territory, April 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-3
LMC

Cherokee P.
D-739

Muskogee, Indian Territory, January 23, 1907.

Sarah Foster,

Lenapah, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1906, granting, among others, your application for enrollment as a Cherokee freedman. Your attorney, Louis T. Brown, Muskogee, Indian Territory, has heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-49
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

Louis T. Brown,
Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1906, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-51
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-52
JMH

Commissioner.

X

710739

COMMISSION TO THE UNITED STATES
OCT 15 1901

FILED

OCT 15 1901



ACTING CHAIRMAN

COMMISSIONERS:

HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Verdict of G. 10/15/01

Received of the Commission to the Five Civilized Tribes
one copy of the testimony in the matter of the application of
Sarah Foster et al for enrollment as
Cherokee Freedmen.

No. G. O. 739

Louis T. Brown
Agent for applicants.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JUN 26 1901



not received within 5 days

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JUN 26 1901

if not received within 5 days
return to Jerry Foster
June 26 1901

REGISTRY RECEIPT

Post Office at

Registered Letter
Parcel

No.

Rec'd

, 190

of

addressed to

SEP 20 1901

P. M.
T. GIBSON, I. T.

Richard Ross, P. M.

P. M.

Cher Fr 1551

Trans. from Cher Fr D969

Cher Fr 1551

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, IT., JULY 1st, 1901.

In the matter of the application of Malinda Beeson for enrollment as a Cherokee Freedman; said Beeson being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q. What is your name? A. Malinda Beeson
Q. How old are you? A. 24.
Q. What is your post office address? A. Welch.
Q. What district do you live in? A. Cooweescoowee.
Q. Do you apply to be enrolled as a Cherokee Freedman? A. Yes, sir.
Q. Who do you want to enroll besides yourself? A. No one else.
Q. Are you married? A. Has been married.
Q. What was your husband's name? A. John Beeson.
Q. What is your father's name? A. William Tucker.
Q. What is your mother's name? A. Charlotte Tucker.
Q. Is William Tucker living? A. Yes, sir.
Q. Is Charlott Tucker living? A. No, sir.
Q. Where were you born? A. Born in the Cherokee Nation.
Q. Lived in the Cherokee Nation all your life? A. Yes, sir.
Q. Never lived out of it? A. No, sir.
Q. Through whom do you claim your citizenship your father or mother?
Q. Either one.
Q. Have they been enrolled here? A. Yes, sir, my father is enrolled at Vinita.
Q. Where is your mother living? A. She is dead.
Q. Did you have a sister mary a man by the name of Banks?
A. Yes, sir.
Q. What is his name? A. William Henry.
Q. Is your name on any of the rolls of the Cherokee Nation?
A. Yes, sir.
Q. What roll? A. The Kern and Wallace.

The 1880 Authenticated roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon/

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 168, #4153, Malinda Tucker, Cooweescoowee District.

- Q. You say you were born in the Cherokee Nation? A. Yes, sir.
Q. Always lived in the Cherokee Nation? A. Yes, sir.
BY MR. J. S. DAVENPORT: Cherokee Fre representative.
Q. Where were you marrie , Malinda? A. I was married in the Nation.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 141, #2956, Malinda Tucker, Cooweescoowee District.

BY COM'R NEEDLES:

- Q. You say you were married in the Cherokee Nation? A. Yes, sir.
Q. You are positive you have never lived out of the Cherokee Nation?
A. Yes, sir .

COM'R NEEDLES: Malinda Beeson applies for the enrollment of herself. She avers that she is the child of William Tucker and Charlotte Tucker. She avers that she is married now to one John Beeson; she cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton and Wallace rolls; she is identified upon said rolls according to the page and number of the rolls as indicated in the testimony. She makes satisfactory proof as to residence, and asks that the testimony taken in the matter of

Malinda Beeson.--2

the enrollment of her father, William Tucker, who is listed for enrollment on doubtful card #329, be made a part of the record in the case at bar, which will be done and copy thereof filed herewith. Said Malinda Beeson, nee Tucker, will now be listed for enrollment as a Cherokee Freedmen upon a doubtful card. She will be notified at her post office address of the action of the Commission.

-----000000000000000000-----

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(SIGNED) J. O. Rosson

Subscribed and sworn to before me this 17th day of July, 1901.

(SIGNED) T. B. Needles,
Commissioner.

Mattie M. Pace, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony.

Mattie M. Pace

Subscribed and sworn to before me this 1st day of December, 1906.

D. P. Rasmus
Notary Public.

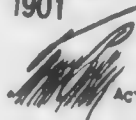
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35069

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JUL 1 1901



ACTING CHAIRMAN.

CHEROKEE FREEDMEN.

Date _____

Post Office

District

1. Name

Age

Owner's name

Citizenship.

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Age

Owner's ~~name~~

Citizenship

Year

Page

No.

Discussion

Parents :

Father

Citizenship

Mother

Citizenship

Names of Children:

3. Year..... Page..... No..... Dist.....

4. _____ Year _____ Page _____ No. _____ Dist. _____

5. Year Page No. Dist.

6. _____ Year _____ Page _____ No. _____ Di _____

7. _____ Year _____ Page _____ No. _____

8. Year Pages No.

9. _____

0. Page No. Dist.

1. _____ Year _____ Page _____ No. _____ Dist. _____

2. _____ Page _____ No. _____ Dist. _____
 _____ Year _____ Page _____ No. _____ Dist. _____

Application made by _____ Page _____ No. _____ Dist. _____
Stenographer _____

Application made by

Stenographer

16. *Chrysomela* *fulva* *fulva*
17. *Chrysomela* *fulva* *fulva*
18. *Chrysomela* *fulva* *fulva*

X-Ray K 329

FILE
SEP 7 1954

...CTING CHAIRMAN

Comptroller

appeared and ~~was~~ to perform this act of September, 1907

to the credit of the above case.

Foregoing said and that same has fine and complete copy of the original Commission for the Native Civilized Tribes he correctly made the 10-0-1896-05 being duly sworn, says that as stenographer to

9

To be filed with the case of Malinda Beeson, C. F. D. #969.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 16, 1901.

In the matter of the application of William Tucker for the enrollment of himself and three grandchildren as Cherokee Freedmen; he being sworn and examined by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A William Tucker.
- Q How old are you? A Well, I don't know exactly; somewhere between sixty and seventy; about 65 I will say.
- Q What is your post office? A Welch.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Did you ever apply to be enrolled by any other Nation or tribe? A No, sir..
- Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A I don't know; there has been so many different rolls taken.
- Q Is your name on the roll of 1880? A I don't know.
- Q You don't know whether it is on any roll? A Yes, sir, I know it is on the Clifton and Kerns roll and the Wallace roll.
- Q Who do you want to enroll besides yourself? A Three grandchildren.
- Q Give me their names? A William Banks.
- Q How old is William? A He is twenty.
- Q Next? A Irene.
- Q How old is Irene? A 15.
- Q The name of the next one? A Virdie.
- Q How old is Virdie? A 10 years old.
- Q What is the father's name of these children? A William H. Banks.
- Q Is he living? A Yes, sir.
- Q Why don't he enroll his own children? A He is living in the States.
- Q What is their mother's name? A Mary, she is dead.
- Q Where are these children now? A One is at my home, and the other two are in Kansas going to school. The youngest ones are in Kansas.
- Q Living there with their father? A Yes, sir, same place he is living.
- Q Where were they born? A They were born in Kansas.
- Q All the children born in Kansas? A Yes, sir.
- Q Was Mary Banks your daughter? A Yes, sir; she went up there and married.
- Q When did she marry in Kansas? A I don't know just what year it was in.
- Q Where you a slave? A Yes, sir.
- Q To whom did you belong? A George Whitmire.
- Q Was he a Cherokee? A Cherokee Indian.
- Q Is he alive? A No, sir, he is dead.
- Q Were you taken out of the Cherokee Nation during the war? A I wasn't taken out; I went out.
- Q Where did you go? A I went to Kansas.
- Q When did you return from Kansas to the Cherokee Nation? A I come back in the fall of '66.
- Q Where to? A I went to Gibson when I first come.
- Q Been living here ever since? A Yes, sir, been in this Nation ever since.
- Q How old would your daughter, Mary, be if she were alive? A I guess 46 or 7 years old. She was born before the war. She never did go out of here; I left her here with the old lady, and when I come back I found her here.
- Q When did she go to Kansas? A She went out to Kansas and married.

- Q Do you know when she married? A No, sir, I don't.
Q Do you know how old she was when she married? A No, sir.
Q Is William Banks her oldest child? A Yes, sir.
Q She must have been out then over twenty years? A No, she wasn't out that long; she was at my place.
Q She never did come back from Kansas? A Yes, sir.
Q After they were married? A Yes, sir.
Q After she married, did she move back? A Yes, sir.
Q Did she move back or just on a visit? A She didn't move back; she was visiting backwards and forward.
Q But she lived in Kansas? A Yes, sir, she lived in Kansas.
Q So she must have been about twenty years old or less than twenty years old when she married? A Yes, sir, I guess so, somewhere along there.
Q And she died in Kansas, did she? A Yes, sir.
Q And her husband still lives in Kansas? A Yes, sir.
Q And these three children were born in Kansas? A Yes, sir.
Q And they always lived in Kansas? A This boy has been living with me, the oldest one, and the other ones have been in Kansas.
Q How long has he been living with you? A He has been there quite a while.
Q Since his mother died? A And before too.
Q He lived with you before? A Yes, sir.
Q But the other children never lived in the Cherokee Nation?
A No, sir, they never have lived in the Cherokee Nation.

The 1880 Authenticated roll and the 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicant and his deceased daughter are not found thereon.

The Kerns Clifton roll examined and the name of the applicant is found on page 168, No. 4151, William Tucker, Cooweescoowee district.

- Q Did you draw strip money for these children? A Yes, sir.

The Kerns Clifton roll examined and the names of the applicants grandchildren are found thereon as follows:

Page 169, No. 4168, Willie Banks, Cooweescoowee district.

Page 169, No. 4169, Irene Banks, Cooweescoowee district.

Page 169, No. 4167, Lettie Banks, Cooweescoowee district.

- Q When was it you say you came back to the Cherokee Nation from Kansas? A I come back in the fall of '66.

L. B. BELL: Where do you live now? A I live where I have been living for thirty years on Cabin Creek where Rogers used to live.
Q Don't you live in Chetopa? A Never been there to live in my life. I live on Cabin Creek.

Q You say you have been living there for thirty years? A Yes, sir, I went there in '69; that is over 31 years.

Q You have been living at the same place all the time?

A Yes, sir, Mr. Schrimsher taken the census when I was there.

Q Why didn't they put you on the roll of 1880? A I don't know why it is. Some way Mr. Bell you all managed it.

Q You never moved out of the country since you come in?

A Never have been out of the country.

Q When you returned in '66, where did you go to? A To Fort Gibson.

Q How long did you stay there? A Along until about winter. Everybody was so hungry and they were issuing rations there and we had to go there to get something to eat.

Q Who did you stay with? A I just camped out.

Q Did you have a family then? A Yes, sir.

Q Did you have a family when you went off? A No, sir.

Q You married after that? A I married in Kansas.

Q Did you marry a Cherokee? A Yes, sir, a Cherokee, one of Dave Rowe's; she used to live with his sister that Ben Mush married.

Q These children you report here are they that woman's children?
A No, sir, another's woman's children. Mary is by a woman I had when I lived here.

Q Who are these children's mother now? A My daughter.

Q I mean your other children? A Them was Lydia's children.

COMMISSIONER NEEDLES: Do you own any property in the Cherokee Nation? A Yes, sir, I got a good farm.

Q Been living on it for thirty years? A Yes, sir.

Q How many acres have you got? A About three hundred acres.

Q Have you any witnesses? A Yes, sir.

L. D. DANIELS, being sworn and examined by Commissioner Needles, testified as follows:

Q Your name is L. D. Daniels? A Yes, sir.

Q How old are you? A 56.

Q What is your post office? A Claremore.

Q Do you know William Tucker? A Yes, sir.

Q How long have you known him? A I have been knowing him about 36 years, I guess, near about.

Q Well, was he a slave before the war? A No, I don't know that.

Q Where was he in 1866? A I met him at Gibson in November, I believe it was, and he come there to get something to eat and I let him have it and I got acquainted with him and others that was with him.

Q In the year of 1866? A Yes, sir.

Q Have you known him continuously since that time? A About five years or six or seven years I found him up here in Cooweescoowee, I have been knowing him ever since that.

Q You don't know whether he went out of the country during the war or not? A Yes, he said so.

Q You don't know who his owner was? A No, sir they called him Falt. I wasn't acquainted with him until I met him down there; he said that was a nickname or something.

L. B. BELL: The first time you saw him was in 1866?
A Yes, sir.

Q He was a stranger? A Yes, sir, he come there with Jesse Vann.

Q And you recollect him right straight on? A Yes, sir, they told me who he was down there.

Q He was introduced to you? A He was introduced; he come to get rations and I issued it.

Q Did you keep a memorandum? A Yes, sir, we had to do it to keep the Creek darkies from gettin rations, and those who were citizens. We were issuing to the Cherokee freedmen.

Q Probably you can give us the day and the month? A If I knew this was coming up, I would have kept the book; I could have made some money on it.

Q You recollect this is the man you issued the rations to?
A Yes. I recollect it, because when I met him in '76, when I moved

up here at met him frequently; his wife's folks lived right near me at Gooseneck; he told me that he was the same man I met.

Q You would not have remember it? A Maybe not.

Q Do you remember all that you issued rations to? A I come might near knowing all the old folks; I don't remember all the children.

Q Did you issue rations to a great any? A Yes, sir, from 1865 to 1867.

LESTER FOREMAN, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Lester Foreman.

Q What is your age? A 58.

Q What is your postoffice? A Vinita.

Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.

Q Do you know William Tucker? the applicant? A Yes, sir, I know him well.

Q Was he a slave before the war? A I don't know.

Q When did you first see William Tucker? A The first time I seen him was along in '66 or sometime along there when the come down after the rations after he had come back from somewhere, I don't know where he come from, I got acquainted with him then; we were both young men.

Q Where was that at? A Fort Gibson.

Q You are satisfied you saw him in Fort Gibson? A Yes, sir.

Q Has he been living in the Cherokee Nation ever since to your knowledge? A Yes, sir, to the best of my knowledge. I haven't missed him out very long at a time.

Q Do you know whether he had a daughter named Mary or not?

A No, sir, I don't know anything about his daughter.

L. B. BELL: What were you doing at Gibson about that time?

A A little of everything directly after the war; I was having a good time; I was a young man, I didn't have any steady occupation at all.

Q Were you living there continually or just in and out?

A I was raised there.

Q I am talking about 1866? A Yes, sir, I was there all the time.

Q That was your home? A Yes, sir.

Q What ever business you had was in Gibson? A Yes, sir, everything I done was in Gibson.

Q How long did this man stay about Gibson in '66? A I don't remember; I seen him just the same as I seen other people there, in and out.

Q Did he stay a month, do you reckon? A I don't know whether he stayed a month or not. He didn't stay with me. I often seen him there.

Q I understood you to say you and he were having good times?

A He was a young man and we were all having good times there.

COMMISSIONER OF APPLICANT: How long has Mary been dead?

A About seven years, I believe.

Q Did she draw money on the Wallace roll? A I don't know whether she got money what time or not.

Q Did she draw it on the Kerns Clifton roll? A She was dead then.

The Wallace roll examined for the name of the applicant's daughter and her name is not found thereon.

Q Is there anybody here that knew Mary Banks? A I don't know whether anybody is here or not; yes, there is.

Q You have got to prove now that Mary Banks was called your child? I don't know only by what the woman said. She was always claimed to be my child.

Q Is your wife living? A No, sir.

Q Mary was never married but once? A No, sir. She might be down as Pack, Mary's mother belonged to Betsy Pack.

JOE DAVIS, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Joe Davis.

Q What is your age? A 46 years old.

Q What is your post office? A Vinita.

Q Are you a recognized freedman of the Cherokee Nation?

A I don't know whether I am or not.

Q You are disputed, are you? A Yes, sir.

Q Do you know William Tucker, the applicant, here? A Yes, sir, he raised me.

Q Did he have daughter named Mary? A Yes, sir.

Q Was she his oldest daughter? A Yes, sir.

Q Who did she marry? A She married a fellow by the name of Banks from Kansas.

Q What was her mother's name? A I don't recollect -- aunt Nancy Pack.

Q Was William Tucker married to Nancy Pack? A I couldn't tell you; I was only a little boy; they lived together I guess before the war like old colored folks did.

Q She was recognized as the child of William Tucker? A Yes, sir.

Q You and she were raised together? A Yes, sir.

COMMISSIONER OF APPLICANT: ~~Now~~ Who was Mary Banks' mother?

A Nancy Pack.

Q Were you married to her at that time? A No, sir; there was no use in marrying them times; they would be taken away from you.

Q You weren't married in slave time? A No, sir.

Q Is Nancy Pack living? A No, sir, she is dead.

Q Who did she belong to? A Betsy Pack.

Q Was Betsy Pack a Cherokee Indian? A Yes, sir.

Q Is Betsy Pack dead? A Yes, sir, long ago.

Q She was the child of Nancy Pack? A Yes, sir.

Q You took Mary to Kansas with you when you went? A No, sir, she was here during the war. I went to Kansas.

Q She never did leave until she married? A No, sir, she never did leave until she married.

William Tucker applies for the enrollment of himself and three grandchildren, William Banks, Irene Banks and Virddie Banks. He avers that said children are the children of his daughter, Mary Banks, by her husband, William H. Banks; that they were born and lived in the state of Kansas. Said Mary Banks was married in the State of Kansas. He avers that Mary Banks was the child of Nancy Pack, a slave, and that Nancy Pack belonged to Betsy Pack, a Cherokee citizen. He avers that said Mary Banks never left the Cherokee Nation until she married her husband, William, which facts are all stated in the testimony. The name of William Tucker cannot be found upon the authenticated roll of 1880, but he is identified upon the Kerns Clifton roll, and his three grandchildren, William Banks, Irene and Virddie Banks, are identified on the Kerns Clifton roll. He avers that he was the slave of one George Whitmire. He makes satisfactory proof as to residence. By reason of the fact that his name is not found upon the authenticated roll of 1880, and the further fact that his citizenship is contested, said William Tucker will be listed for enrollment as a Cherokee Freedman upon what is known as a doubtful card. By reason of the fact that Mary Banks, the mother of the children applied for, does not appear upon the authenticated roll of 1880, not upon any rolls in the possession of the Commission at this time, and the further fact as to their residence in the State of Kansas, and further as to their citizenship be protested against by the authorities of the Cherokee Nation, the said children will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. Said William Tucker will be duly notified of the action of the Commission when the same is consummated by mail.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true, full and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 20th day of May, 1901.

(Signed) C. R. Breckinridge.

Commissioner.

24-3-1881
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SEP 11 1881
J. O. Rescoe, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly made the foregoing copy and that same is a true and complete copy of the original transcript in the above case.

J. O. Rescoe

Subscribed and sworn to before me this 5th of September, 1901.

M. D. Green
M. D.
Commissioner.

REJECTED: as to husband, George Adams.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., May 16, 1901.

In the matter of the application of Katie Adams for the enrollment of herself and eight children as Cherokee freedmen by right, and of her husband as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Needles she testified as follows:

Appearances:

Mellette & Smith, attorneys for applicant;
L. B. Bell, Cherokee Representative:

- Q What is your name? A Katie Adams.
Q What is your age, Katie? A I am 36.
Q What is your post-office address? A Welch, I.T.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know whether it is, mister, honestly.
Q Is it on any of the rolls? A Yes sir.
Q On the Kerns-Clifton pay roll? A Yes sir.
Q On the Wallace roll? A Yes sir.
Q Who do you want to enroll besides yourself? A Me and my children and husband.
Q How many children have you? A I have eight living.
Q Give me the names of those under 21 years of age. A All of them is under age, there's the ages of them. (Hands Commissioner a paper).
Q Albert Adams, how old is Albert? A He is 15.
Q George Edward Adams, 14? A Yes sir.
Q Elias one of them? A Yes sir.
Q 13? A Yes sir.
Q Walter, 11? A Yes sir.
Q Cora? A Yes sir.
Q Cora is 10 I believe? A Yes sir.
Q Elmer eight years of age, Ella? A Yes sir.
Q Five years of age; Cordelia? A 2 years old.
Q Melvin? A He is dead.
Q Eight in all? A Yes sir.
Q Are these children all alive and living with you at this time? A Yes sir.
Q Are you married? A Yes sir.
Q What is your husband's name? A George Adams.
Q Is he a citizen? A No sir, he is a United States citizen; here is his license. (Produces papers)
Q You apply for his enrollment? A Yes sir.

Com'r: Applicant presents certificate of marriage and duly authenticated marriage license, issued by the authorities of the Cherokee Nation, under seal, duly recorded as provided by the laws of the Cherokee Nation, certifying that she was married to one George Adams.

- Q There is no certificate of marriage here? A No sir. I lost the marriage certificate, but I can prove that we were married.

Com'r: Presents duly authenticated marriage license authorizing her marriage with her husband George Adams, said marriage license being issued by the authorities of the

Katie Adams, et al.-- 2.

Cherokee Nation and duly recorded, but presents no certificate of marriage.

Applicant: My husband is 48 years old.

Examined by Smith, of Mellette & Smith, attorneys for app't:

- Q Who was your father? A William Tucker.
Q The man who was just on the stand here, applying for himself?
A Yes sir.
Q Who was your mother? A Lettie, some called her Charlotte, but her name was Lettie.
Q Where do you live? A On Big Cabin.
Q How long have you lived there? A Ever since I can remember anything.
Q Big Cabin in the Cherokee Nation? A Yes sir.
Q How old did you say you were? A I am 36.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q Are these children that you apply for all living with you?
A Yes sir.
Q Where were they born? A In the Cherokee Nation.
Q Where were you and your husband married? A Right in father's house.
Q Where is father's house? A In the Territory.
Q Cherokee Nation? A Yes sir, where I was raised at.
Q Is there anyone here who saw you married? A Yes sir.
Q Who? A Mr. Steven Vann over there and my father.
Q Are you on the Kerns-Clifton roll? A I guess so.
Q Did you draw money at the Kerns payment or the payment that followed the Kerns roll? A Yes sir, and the Wallace too.
Q The payment that followed the Kerns roll, for whom did you draw, for anyone besides yourself? A Yes sir, for me and my oldest children. Drawed for all of them but Ella.
Q You know how you were put down on the Kerns roll, as Katie Adams or somebody else? A I don't know how they put it down; you see father give in my name. I think it was Katie Adams though.
Q What name did you go by before you were married? A Katie Tucker; I never was married but once, this is my first husband.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 169 #4160 Kate Adams, Cooweescoowee District;
page 169 #4161 Albert Adams, Cooweescoowee District;
page 169 #4162 George Adams, Cooweescoowee District;
page 169 #4163 Elias Adams, Cooweescoowee District;
page 169 #4164 Walter Adams, Cooweescoowee District;
page 169 #4166 Cora Adams, Cooweescoowee District;
page 169 #4165 Elman Adams, Cooweescoowee District.

- Q Were you on the Wallace roll yourself? A Yes sir.
Q How were you put down on the Wallace roll, as Katie Adams or Katie Tucker? A Katie Adams.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified thereon as follows:
page 98 #2107 Katie Adams, Cooweescoowee District.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicants not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

Q Who do you say your mother was? A Her name was Lettie.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A She belonged to Dave Roe, I think; she always told us that was her young master.
Q Was he a Cherokee? A Yes sir.
Q Where did he live? A I don't know sir.
Q Who have you here who knows about who your mother belonged to?
A Oh her sister is here; I guess George Vann knows about her owners, they all lived close together I suppose.

WILLIAM TUCKER, being sworn - having been before sworn, by Commissioner Needles, and being examined by him, testified:

Q You were married to Lettie? A Yes sir.
Q Have you got a certificate of marriage? A No sir. Married in Kansas, up close to Osewatomie.
Q You were married according to law? A Yes sir, a preacher married us; we didn't get any license.

Examined by Attorney Smith:

Q When was that that you married? A Oh I guess it must have been about '63. Somewheres in the first of '63.
Q Was that the mother of Katie Adams here? A Yes sir.
Q Where was Katie born? A She was born there in Kansas, just before we came down here.
Q About how old was she when you came down here? A I guess she must have been about 2 years old.
Q Where has she been living ever since you brought her ~~xxx~~ here?
A Up here on Cabin Creek close to where I live.
Q How long did you live with the mother of Katie? A Something near about 25 years anyhow.
Q Who was this girl's mother before you married her, what was her name? A They called her Lettie, she belonged to Dave Roe, but she was living with Ben Mush, some called him Ben Wisdom. But her main owner was named Roe.
Q Was he a citizen, an Indian? A Yes sir.
Q In the Cherokee Nation, citizen of the Cherokee Nation? A Yes sir.
Q Where was Lettie when the war commenced? A She was here too, I reckon, I don't know where she was; I come across her in Kansas.
Q When did she come back to the Cherokee Nation? A She come back with me in '66.
Q You say you were married to this woman Lettie, Katie's mother, in Kansas, and lived with her 25 years? A Yes sir.

Examined by Cherokee Representative, J. B. Bell:

Q Is Lettie dead now? A Yes sir.
Q How long has she been dead? A About eight years; she died just before the Wallace payment.
Q Is this your oldest child? A This is the oldest one by me; you know Gilbert Vann is her oldest one and Steve is the next.
Q This is the oldest child of yours by that last marriage? A Yes sir.
Q When you married this last woman was your first wife dead, Nancy? A Oh, yes, Nancy died before the war.

GEORGE VANN, being sworn by Commissioner Needles, testified as follows:

Examined by Attorney Smith:

- Q State your name? A George Vann.
Q Where do you live? A I live on Verdigris river, Cooweescoosee District.
Q How long have you lived there? A Ever since '74.
Q Do you know this applicant, who sits here, Katie Adams? A Yes sir.
Q Do you know her father? A Yes sir, her father was named William Tucker.
Q Did you know her mother? A Yes sir.
Q Is her mother living? A She is dead.
Q Do you know whether Katie's father, William Tucker, and her mother were married, or whether they lived together as man and wife? A I wasn't there when they married.
Q How long did you know them living together in that way? A I first knowed it in Kansas in about '63 or '64.
Q Do you know when Katie's mother died? A I know, it has been 7 or eight years.
Q When did you first know Katie's mother and William Tucker? A I have knowed Katie's mother all my life.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong? A I believe she belonged, that is she always went by Roe, she lived with a woman called Pollie Mush, Dave Roe's sister.
Q Where? A Down on Spring Creek, in Saline.
Q Do you know whether she went out of the Nation or not, during the war? A Yes sir, she went to Kansas.
Q You know when she came back? A She came back with Bill Tucker in '66.

Examined by Cherokee Representative, L. B. Bell:

- Q You say she came back with Bill Tucker? A Yes sir.
Q How do you know? A I saw them.
Q Where at? A Right at Ft. Gibson. We started before they did, and first I saw them after I got back I saw them at Ft. Gibson.
Q They wasn't in that horse Creek fight? A No sir, they wasn't along.
Q You met them at Gibson after you got off of that battle? A Yes sir, the first I saw them after we got back was at Ft. Gibson.

Applicant, KATIE ADAMS, re-called, and further examined;
By Commissioner Needles:

- Q When were you married? to George Adams? A When we first married Mr. Riley married us in father's house, and then after that they commenced talking about people marrying according to law, then we got a license and married over again.
Q That was in 1896? A Yes sir, that's the way it was.

Com' r. Needles: Katie Adams applies for the enrollment of herself and eight children; her name is not found upon the authenticated roll of 1880, but is duly identified upon the Kerns-Clifton roll, and the Wallace roll, and the names of her six children, oldest children are identified upon the Kerns-Clifton roll; the names of her two youngest children, Ella and Cordelia are not found upon said roll; it will be necessary for her to make satisfactory proof of their birth; she avers that she is the daughter of William Tucker, and that her mother's name was Lettie, who was a Cherokee slave, the facts being

more fully stated in the testimony; reference is made to the testimony taken in the application of William Tucker for the enrollment of himself and three grand-children, he having been enrolled on card number D-329, testimony in said case will be made a part of the record in the case of the applicant, and copies of the same will be filed with her testimony; she applies for the enrollment of George Adams, her husband, as an intermarried citizen; she presents satisfactory proof that she was married to George Adams according to the laws of the Cherokee Nation in the year 1896, too late, by the provisions of the laws of the Cherokee Nation to acquire any rights, consequently, her application for the enrollment of her husband, George Adams, will be rejected; said applicant and her children enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card, by reason of the fact that her name is not upon the authenticated roll of 1880 and her citizenship is contested by the representatives of the Cherokee Nation; when her case is duly considered by the Commission and their conclusion is arrived at, she will be notified of the same, by mail.-----

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this May 17, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

The undersigned, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony now on file in this office.

Sarah Waters

Subscribed and sworn to before me this Dec 1 1906.

D. P. Rasmus
Notary Public

969

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of A. D. 190....

Given under my hand this.....
day of..... A. D. 190....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

..... day of 190....
W. B. Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190....

Subscribed and sworn to before me
this

DEPARTMENT OF THE INTERIOR;
~~COMMISSION TO THE FIVE CIVILIZED TRIBES.~~

FILED
SEP 21 1901

W. B. Smith
ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Malinda Beeson
for enrollment as Cherokee citizens:

Case No. D 969

To ~~Malinda Beeson or Mellette & Smith her Attys.~~

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 15th 1901 or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 20th 1901 *l. B. B. B.*

201 L R Bell
W. M. Hargrave
Attorneys for the Cherokee Nation.

Attorneys for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications of:

William Tucker, et al.,	Cherokee Freedmen D 329
Katie Adams, et al.,	Cherokee Freedmen D 330
Lucinda Whitmire,	Cherokee Freedmen D 352
Sarah Foster,	Cherokee Freedmen D 739
Malinda Beeson,	Cherokee Freedmen D 969

D E C I S I O N .

THE RECORD HEREIN SHOWS: That applications for enrollment as Cherokee freedmen were made to this Commission, in 1901, by William Tucker for himself and his three minor grandchildren, William, Irene and Virdie Banks; by Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Zeke Whitmire for his wife, Lucinda Whitmire, and his five minor children, William, Lettie, Mose, Edward and Sequoyah Whitmire; by Jerry Foster for himself, his wife, Sarah Foster, and his four minor children, Clara, Clarence, Carrie and Cora Foster, and by Malinda Beeson for herself. The applications made for the enrollment of Zeke Whitmire, William Whitmire, Lettie Whitmire, Mose Whitmire, Edward Whitmire, and Sequoyah Whitmire, applicants in C. F. D. 352, and Jerry Foster, Clara Foster, Clarence Foster, Carrie Foster, and Cora Foster, applicants in C. F. D. 739, have been heretofore determined, and are not included in this decision.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein except the applicants in C.F.D. 329, were born since the commencement of the war of the rebellion, and claim their right

to enrollment as Cherokee freedmen by reason of being descendants of William Tucker, the principal applicant in C.F.D. 329, who, at the commencement of the war of the rebellion, was the slave of a Cherokee citizen; that during said rebellion the said William Tucker removed from the Cherokee Nation to the state of Kansas, but returned to said Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

All of the applicants herein except the applicants in C.F.D. 329 and C.F.D. 352, have resided continuously in the Cherokee Nation from the date of their birth up to and including September 1, 1902, and William Tucker, the principal applicant in C.F.D. 329, has resided continuously in the Cherokee Nation from his return to said Nation in 1866, up to and including September 1 1902.

William Banks, Irene Banks and Virdie Banks, the minor applicants in C.F.D. 329, were born since 1866, and are the children of one Mary Banks, who, at the commencement of the war of the rebellion, was the slave of a Cherokee citizen, and who, during said war, continued to reside in the Cherokee Nation; that about the year 1874, said Mary Banks removed to the state of Kansas, where she married one William Banks, a citizen of said state, and continued to reside therein until the date of her death in 1894. The evidence fails to show that said Mary Banks has at any time possessed any property in the Cherokee Nation.

In view of the above facts it is considered that said Mary Banks forfeited her right to citizenship in the Cherokee Nation, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;"

William Banks, Irene Banks, and Virdie Banks, were born since the forfeiture of citizenship by their mother, Mary Banks, and possess no rights to enrollment other than through their said mother. None of the applicants herein can be identified on either the 1880 authenticated Cherokee roll or the 1896 Cherokee census roll.

The evidence further shows that Lucinda Whitmore, applicant in C.F.D. 352, died prior to September 1, 1902.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date, shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS, THEREFORE, THE OPINION OF THIS COMMISSION: That William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster, and Malinda Beeson, should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495); and that the application made for the enrollment of William Banks, Irene Banks and Virdie Banks, as Cherokee Freedmen should be denied, under the provisions of the Act of Congress above cited.

It is further the opinion of this Commission that the application made for the enrollment of Lucinda Whitnair as a Cherokee Freedman, be, and the same is, hereby dismissed, under the provisions of Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES

(Signed)

TAMS BIXBY

Chairman

"

T. B. NEEDLES,

Commissioner

Commissioner

Dated at Muskogee, Indian Territory

this JUN 28 1905

admitted and sworn to before me.

Official's name (printed).

Witness and to be sworn to before me. I hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the court.

Attest my hand and seal of office this _____ day of _____ 1906.

Notary Public for the State of _____

My commission expires _____
of the State of _____
On behalf of the _____

Subscribed and sworn to before me this _____ day of _____ 1906.
at _____
time when _____
objects to _____
he believed _____
that the evidence _____
shows that the _____
has been _____
and that he is _____
a slave of _____
and that he is _____
person of _____
state _____

COMMISSIONER OF THE STATE

FILED
JAN 30 1906

Commissioner

--J--

Cherokee Freedman D 329
" " D 330
" " D 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
NSUKOGHE, I. T., JANUARY 25, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL.; as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee Nation, James S. Davenport.

The records of this office show that on January 6, 1906, the applicants, their attorney, and the attorneys for the Cherokee Nation were duly notified by letter, that on December 16, 1905, the Secretary of the Interior remanded this case for further hearing as to the reliability of the applicants' witnesses, Luster Foreman and L. D. Daniels, and that they would be permitted to appear on January 25, 1906, and introduce further testimony, at which time the following proceedings were had.

W. C. CHAMBERLAIN, being first duly sworn, testified as follows: on behalf of Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A W. C. Chamberlain.
Q What is your post office? A Vinita, Indian Territory.
Q How long have you lived at or near Vinita, Indian Territory? A I come there in 1874, , lets see, about 41 years.
Q Did you know Luster Foreman during his life time? A Yes sir.
Q How long did you know him before his death? A I knew him from about 23 or 24 years.
Q Did you know his reputation in the community in which he lived for being a truthful and reliable man?

By Mrown: I object to that question in that form.

On Behalf of the Commissioner: Objection noted.

- Q Did you know Luster Foreman's reputation in the community in which he lived during his life time for truth and veracity?
A Yes sir.
Q Was that reputation good or bad? A It was bad.
Q From that reputation would you believe him on oath? A I would not.

BY BROWN:

- Q Mr. Chamberlain, Luster Foreman lived in Vinita for a number of years didn't he? A Yes sir.
Q You were personally acquainted with him during his life time and during the number of years he lived in Vinita? A Yes sir.

- Q Luster was one of those jolly kind of fellows that carried on a great many jokes with the people in and around town? A Yes sir.
- Q He was that kind of a fellow that every citizen who lived there always liked to joke with him in some manner? A Yes sir.
- Q Did you ever have any business relations with him? A I don't know whether I did or not, I must have had some, I don't remember any particular business.
- Q Can you remember any you have ever had with him? A No sir.
- Q Now then on business matters, business obligations and matters of that kind, are you prepared to state to this commission that you would not believe him on oath?

Mr. Davenport: I object to that as not being a proper question with reference to a man's truthfulness.

On Behalf of the Commissioner: Objection noted.

- A No sir, I would not.
- Q Are you testifying as to what you know personally about this man?
- A Well what I have heard and know too.
- Q Who did you ever hear say that Luster Foreman wasn't to be believed? A Well I don't remember any particular person, the general community though would not believe him.
- Q Yet you cannot give us the name of a single individual who told you they would not believe him, can you? A I don't remember any particular person.
- Q Mr. Chamberlain did you ever hold any official position in the town of Vinita? A Yes sir.
- Q What positions have you held? A I have held all the positions offered there in the town.
- Q You used to be Mayor of the town? A Yes sir, several times.
- Q Luster Foreman has testified in your courts? A I don't remember of any times.
- Q Are you willing to say he hasn't testified? A I don't remember of him being in court before me.
- Q Don't you know as a matter of fact that he has been a witness several times and upon his testimony you rendered a decision and assessed a fine and punishment to the defendant? A No sir, I don't remember any particular case.
- Q Would you swear you haven't done that? A No sir, I don't remember what case I tried, it may be a matter of record there, I was Mayor 4 or 5 years there at different times.
- Q You can't give this Commission the name of a single individual who has ever told you that Mr. Foreman's reputation for truth and veracity is bad, and that they would not believe him on oath, can you? A Why I could I suppose, if I would remember the names, I don't remember any particular one though.
- Q Luster was what we sometimes term a jolly good fellow and told a great many tales which most everybody in the community and we all looked upon that way? A I don't remember of him telling many ~~like~~ tales, he was sort of a darkey,--- you know how he was.
- Q Isn't that the truth, wasn't he one of those fellows that every time you meet him you expected him to tell something new, and when you passed around the neighborhood wasn't he a sort of a good old darkey that had something new to say to you? A He was on that order.
- Q Don't you know as a matter of fact that the Attorneys for the Cherokee Nation at the time the Commission to the Five Civilized Tribes commenced to make a roll of freedmen citizens of the Cherokee nation, employed Luster Foreman to assist them in determining who were the citizens and also introduced him in a large number of cases as a witness in their behalf? A I don't know that.

- Q Don't you know as a matter of fact that John W. Wallace, representing the United States Government, and the man who made what is known as the Wallace roll, that in making that roll carried with him Luster Foreman, and that Luster Foreman's testimony was used in a large number of cases upon which the Wallace roll was made?
- A I don't know.
- Q Don't you know as a matter of fact that he did testify in a large number of cases before the Wallace court? A I have heard he did, but I don't know myself.
- Q You resided in Vinita at that time? A I think I was at Tahlequah at that time.
- Q Didn't you reside in Vinita when Mr. Wallace was in Vinita making the roll? A I don't know that for sure, what year was that?
- Q '89? A I was at Tahlequah at that time, my home was there but I was at Tahlequah.
- Q As a matter of fact don't you know Luster was there?

Mr. Davenport: I object to that because the Cherokee Nation was not represented before Wallace in making that roll and he might have used the most unreliable men in the world in making that roll.

By Brown: In reply to that the attorney for the applicants desires to state that the records of the department show that the Cherokee Nation were given an opportunity to be represented at that hearing and that they refused to appear, and they are therefore bound to whatever Mr. Wallace did.

Mr. Davenport: To that the Cherokee nation's representatives state that the Department has held that they are not bound by that, and not even in the Kern-Clifton roll made several years later.

On Behalf of the Commissioner: Objection noted.

W I T N E S S E X C U S E D .

GEORGE W. CLARK, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A George W. Clark.
- Q What is your post office? A Vinita, Indian Territory.
- Q How long have you lived at Vinita and near there? A I have lived there and near there 41 years.
- Q Did you know Luster Foreman during his life time? A Yes sir, I knew Luster.
- Q Did you know his reputation in the community in which he lived prior to his death for truth and veracity, that question can be answered yes or no? A Yes sir.
- Q Was that reputation good or bad? A Well it wasn't county very good, Luster wasn't.
- Q From that reputation would you believe him on oath where he was interested in any matter?

By Brown: The question is objected to it not being properly put.

On Behalf of the Commissioner: Objection noted.

A Well I would not myself.

BY BROWN:

- Q Mr. Clark if he wasn't interested in the matter at all would you believe him on oath? A Well I would have to know it myself, I was acquainted with him along time, I knew him when I soldiered.
- Q Now coming up as to the matter as to when some person possible returned within a certain neighborhood and taking your knowledge of his reputation and taking the man as you knew him, would you believe him? A There is where he broke my confidence, in testifying in these cases.
- Q Are you testifying what you know yourself? A Yes, there is where he broke my confidence.
- Q How close do you live to Vinita? A I live in the town of Vinita now.
- Q How close did you live to the town of Vinita prior to the time Luster Foreman died? A I don't remember just how long I had lived there prior to Luster's death.
- Q How long did you live on your farm there south east of Vinita? A There in that neighborhood 41 years, not on the same farm.
- Q When did you first go on that farm? A I went up there in 1865, been there in the neighborhood ever since.
- Q The truth is you have lived on a farm southeast of Vinita? A Southeast and southwest ever since the war.
- Q How long have you had a residence in the town of Vinita? A 20 odd years.
- Q Do you mean by that that your family has resided in the town of Vinita for that number of years? A That is what I mean first and last.
- Q Now lets get at it as it is, how long has your family resided continuously in the town of Vinita? A Well I don't exactly recollect the year we moved there, but I know 20 years ago this coming February my family was living there off and on and I stayed all night there with my folks. There was a snow fell there 22 inches deep.
- Q Isn't it a fact until a year or two ago that you spent most of your time ~~at~~ out on the farm? A Yes most of my time, I generally went home sometimes twice a week and sometimes once a week, and sometimes 3 or 4 times a week.
- Q Luster Foreman was one of those old plantation darkies and always had something funny to tell you and some joke when you met him? A Always yes.
- Q Every time you met him didn't you expect him to tell you something funny? A Yes.
- Q He was simply one of those jolly good fellows that you always liked to meet? A Yes, we all picked at him.
- Q And he always told you some funny tale or story that you didn't believe? A Yes.
- Q Nobody never came to you and told you they wouldn't believe Luster Foreman on oath did they? A I don't know as anybody did.

BY MR. DAVENPORT:

- Q You have heard a great deal of talk of how Luster would swear & haven't you? A

By Brown: Objected to on the ground the question is leading and suggestive to the answer.

On Behalf of the Commissioner: Objection noted.

- A I have heard a right smart outside talk how he would swear in regard to these claim cases.

BY BROWN:

- Q Who ever talked about that Mr. Clark? A Well I have heard it in just a general conversation.
- Q Can you name a single person that you have heard say that? A Well I suppose I could.
- Q All right lets have the person? A Well I have heard wr. McClellan
- Q That is Charles McClellan is it? A Yes.
- Q He is a witness here in the case? A I believe he is.
- Q Who else? A I have heard Captain Bell speak about him.
- Q You mean L. B. Bell? A Yes.
- Q Who is Attorney for the Cherokee Nation? A Yes.
- Q Who else? A Well I have heard various ones.
- Q Those are the only persons whose names you can call is it?
- A Well in conversation around I have heard a good many but didn't exactly recollect, I have heard them say that they would not believe him on oath
- Q You have heard a great many? A Yes.
- Q And the only persons whose names you can call is Charley McClellan, a witness in this case, and Col. L. B. Bell, one of the attorneys for the Cherokee Nation? A Well I guess it is.
- Q Now when was it you had this conversation with Mr. McClellan when he stated he would not believe Luster Foreman on oath? A I don't remember.
- Q When was the last time? A I don't remember.
- Q About how long as it been ago? A I don't remember.
- Q Has it been since you were subpoenaed as a witness in this case?
- A No, I haven't talked to any of them since then, I was just subpoenaed day before yesterday.
- Q You came down on the same train with Mr. McClellan did today didn't you? A No, I think he come from Claremore, I understood him to say he got in here last night.
- Q How long has it been since Mr. McClellan lived in and around Vinita? A It has been sometime.
- Q About how many years? A Since he lived there?
- Q Yes sir? A I don't know as he ever did make his home there.
- Q The truth is Charley McClellan never lived in the town of Vinita in his life? A No, I don't believe he did, he has been there and owned property there but I don't think he ever made a residence there.
- Q When was it you talked to Col. L. B. Bell about this man's reputation as to truth and veracity? A I don't know as I ~~am~~ had very much talk about it at all, he told me he wanted me to come down here in this case.
- Q And that was the time he told you that he would not believe Luster on oath? A I don't know as it was, he asked me if I would believe him on oath.
- Q It is just a question now isn't it? A No, not now cause he is dead
- Q And that is the only reason now? A No, I wouldn't believe him if he was alive.
- Q When was it you talked to Mr. L. B. Bell, one of the attorneys for ther Cherokee Nation in which he stated to you or in your presence that he would not believe Luster Foreman on oath? A I can't remember when it was. When he asked me he said he wanted to try to impeach Luster.
- Q Did Col. L. B. Bell ever state to you that he would not believe Luster Foreman on oath? A I don't believe he did.

BY MR. DAVENPORT:

- Q Luster lived around Vinita there ~~xxxx~~ for several years didn't he?
- A Yes sir.
- Q What did he do around there? A He lived around there and I think worked around right smart for the town I didn't pay any attention to him, had more business of my own that I could attend to.

WITNESS EXCUSED.

CHARLES M. McCLELLAN, being first duly sworn, testified as follows on behalf of the Cherokee Nation.

BY MR. DAVENPORT:

- Q What is your name? A Charles M. McClellan.
Q What is your post office? A Claremore.
Q How long have you lived at or near Claremore? A Well, I moved up in that country in 1870 I believe it was.
Q Did you know a fellow by the name of L. D. Daniels? A Yes sir.
Q How long have you known him? A I don't recollect, I have known him a long time.
Q Did he ever live in Claremore or in that community near Claremore?
A Yes sir, I think he lived there, I don't know just exactly how long but a year or so, maybe a year and a half.
Q Did you know him before he lived there? A Yes sir.
Q Where was he living when you first knew him? A He lived way above there somewhere but he used to always be at Court and around.
Q Did you know him when he lived in or near to Claremore? A Yes sir.
Q How far is that to where you lived? A About 7 miles.
Q Where was your place of marketing and going to post office? A He lived in Claremore and that was my post office.
Q Do you know his reputation in the community in which he lived there at Claremore for truth and veracity? A I think I do, yes sir.
Q Do you know his reputation in the community in which he lived upon the Verdigris River, for truth and veracity.

Mr Brown: At this time I ask the attorney for the Nation to confine his questions to the neighborhood in which L. D. Daniels resided.

Mr. Davenport: The attorney for the Cherokee Nation is asking the questions and if he is making any objections let him make them. I have asked him if he knew his reputation in the community in which he lived on the Verdigris River.

A Yes sir, I think I do.

By Brown? A The answer is objected to for the reason the witness should state yes or no.

On Behalf of the Commissioner: Objection noted.

A Yes.

- Q Did you ever know of him living in any other community other than the community on the Verdigris River above Claremore and the Claremore community? A I don't know just where he lived but he was nearly always at Court there.
Q Was his reputation in which he lived at Claremore for truth and veracity good or bad? A Bad, very bad.
Q Was his reputation on the Verdigris River where he lived for truth and veracity good or bad? A Bad.

BY BROWN:

- Q How long have you lived in and around Claremore? A About 35 years.
Q How long had you been living in and around Claremore until you became acquainted with L. D. Daniels? A I don't know, I think I knew L. D. when I first went up there.
Q Where was he living then? A I think up somewhere about Coody's Bluff, I am not positive where he did live I would only see him at the Court house.

- Q When you would see him around the Court house what would he be doing? A Oh spouting some of his big yarns, you know what a great gasser he is, you knew him.
- Q About how often would court meet at Claremore at different times? A Oh at different times.
- Q How often? A I don't know how often, just owing to the amount of business they had, at elections and court.
- Q How long did he live in and around Claremore where you have lived? A I think he made his home there something near two years.
- Q About when was it he moved in that vicinity, about what year? A I don't recollect what year he moved there.
- Q What is your best judgment? A Well I have seen him there, I never was about his house, I don't know just when he did move there, but I had seen him there after he was living there, he told me himself here a few years ago but what time he come and when he left I don't know.
- Q What is your best judgment? A I don't know when he moved.
- Q You don't know the year? A No.
- Q Don't you know about what year? A He has been off and on there all the time, I don't know just when he told me he was living there, that has been about some 3 or 4 years ago I guess.
- Q It was after the Commission to the Five Civilized Tribes commenced to make the roll of Cherokee freedmen that L. D. Daniels moved in the vicinity of Claremore, wasn't it? A I don't know just when he moved there, he used to be there, but I know he told me he was living in town, that has been some 3 or 4 years ago, I don't know just exactly the date, I didn't come to town very often but in public gatherings always found L. D. there.
- Q L. D. Daniels was a very prominent man in politics, about as prominent as a man of his color? A Yes to hear him tell it.
- Q You expected him when you went there? A I pretty near always seen him, didn't expect it that I remember of.
- Q Who ever told you that they would not believe L. D. Daniels on oath? A If I have heard one I have heard fifty.
- Q Name one? A I don't know who all I haven't heard.
- Q Name one? A All my associates there that I know, I have talked about him, Clem Rogers, Major Lipe.
- Q He is dead? A Major Lipe dead, when did he die?
- Q Who else? A Watt Starr, he just died a few days ago.
- Q Who else? A Everybody I have heard talking about it, well I don't recollect every man I have heard talk about him.
- Q Now these are three persons you have heard talk about him, one of which is dead, you say there about fifty? A There might have been twice fifty, I never ~~heard~~ heard anybody say anything else about him.
- Q Now can you name another individual that told you that they would not believe L. D. Daniels on oath? A Yes.
- Q All right? A Bean Burgis, I don't know everybody that I have heard talk about him.
- Q Now that is four, it is very important that you name them, now name another? A Everybody that I know of.
- Q Call some of their names? A Well I don't recollect who all.
- Q Of the large number of people you have heard talk about him you can name those four? A Well I can't ~~name~~ remember everybody that I have heard talk about him.
- Q Name some of them? A Davenport.
- Q That is J. S. Davenport one of the Attorneys for the Cherokee Nation? A Me and him have talked about it.
- Q One of the attorneys for the Cherokee Nation? A That is what I understand he is attorney.
- Q Now name another? A Bill Chambers and Teece Chambers.

- Q You have heard Teece talk about him? A Yes, all I ever heard him say about him, it is just common talk that L. D. Daniels is the biggest liar on earth.
- Q Is there any one else you can recollect? A All my neighbors around there that I have heard talk about him.
- Q When was it you had a talk with Clem Rogers in which he told you that he would not believe L. D. Daniels on oath? A I don't recollect the date.
- Q Tell me the year? A Well I think I heard him say so right recently.
- Q Now when was it with reference-----? A How do you expect to recollect the date about which-----
- Q When was it in reference to the time you were subpoenaed in this case? A I think we were talking about it last week.
- Q In reference to the time you were subpoenaed as a witness in this case? A I think that is the way this conversation come up, I told him I was subpoenaed down here in this case and we were talking about it.
- Q Did you bring the matter up with him or he with you? A I don't recollect that.
- Q Where were you standing? A I don't remember that, over there in Claremore though.
- Q Don't you remember what place it was? A No, I don't.
- Q When was it you had a conversation with Major Lipe and he told you he would not believe L. D. Daniels on oath? A It has been along time ago.
- Q About how long ago? A I couldn't say, two or three years, a year or so, we are close neighbors.
- Q Since the Commission to the Five Civilized Tribes began making a roll of Cherokee freedmen? A I think it was.
- Q When was it you talked to Watt Starr? A I don't remember that.
- Q What is your best judgment? A Sometime--I think the last time I was at his house, sometime this last fall.
- Q And this fellow Bean Burgis when was it you talked to him about it? A I think we were talking about it since I was subpoenaed down here.
- Q Who brought the conversation up, you or he? A I don't remember anything about that.
- Q When was it you talked to Mrit Davenport about it? A I don't recollect, it seems to me about a year or two.
- Q Since the Commission has commenced to make a roll of Cherokee freedmen was it? A Yes, since then.
- Q When was it you talked to the Chambers boys about it? A I don't remember.
- Q Your best judgment? A Within the last 3 or 4 years.
- Q In all these conversations that you have had in which parties have told you that they would not believe L. D. Daniels on oath how would the conversation come up? A Just be talking generally that is just common talk there at Claremore, that he is the biggest liar on earth and wouldn't believe him.
- Q These people just come up and told you that they wouldn't believe him? A It was just common talk.
- Q Can you remember anything else that you talked about in those conversations except what these people told you in regard to L. D. Daniels? A Just talked about what we thought he would say.
- Q Can you remember anything else you talked about besides this? A I don't know as I do.
- Q You are a citizen of the Cherokee Nation by blood? A No.
- Q By adoption? A Yes.
- Q Your family are Cherokees by blood? A Yes.

- Q You are prejudice to some extent against persons claiming citizenship because they were former slaves of Cherokees? A Well ~~but~~ I don't know but what I am.
- Q Do you know Mr. Chamberlain who has just testified in this case?
- A Yes sir.
- Q Did you ever have a talk with him about L. D. Daniels and Luster Foreman? A I don't remember that I ever did, I don't remember every little conversation that has come up, I might have been in company with somebody else, I don't remember such things. I know the common belief so far as L. D. Daniels, what the people say where we live where he has been.
- Q Do you remember when John W. Wallace made what is known as the Wallace roll? A Yes.
- Q Were you in and around his court during that time? A I don't think he was.
- Q Who subpoenaed you? A Mr. Bell had me subpoenaed.
- Q When? A Last week.
- Q The truth is Mr. McClellan about all the conversations you have had with reference to this particular matter has been since you were served with the subpoena? A With these different parties.
- Q The parties whose names you have given this Commission? A In regard to L. D. up there since that?
- Q Yes? A Some of it has and some has not.
- Q All of the conversations have been since the Commission commenced to make a roll of the Cherokee freedmen? A I have heard people speak about old L. D. 20 years ago, he was the biggest liar on earth.
- Q Did you live in the vicinity in which L. D. did? A I lived in Cooweescoowee District and he did and he was there. He would stand around and gag and fellows would say that is some of L. D.'s lies.
- Q You don't know where L. D. lives now, do you? A No.
- Q You don't know how long it has been since he ~~left~~ left the town of Claremore? A No.

W I T N E S S E X C U S E D .

BEAN BURGIS, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

BY MR. DAVENPORT:

- Q What is your name? A Bean Burgis.
- Q What is your post office address? A Claremore.
- Q How long have you lived in Claremore? A 19 years.
- Q Do you know L. D. Daniels? A Yes sir.
- Q Did he ever live in Claremore? A Yes sir.
- Q How long have you known L. D. Daniels? A I have knowed him for years, several years.
- Q Do you know what his reputation in the community of Claremore in which he lived at one time is for truth and veracity?

By Brown: Object to that on the ground it is incompetent.

On Behalf of the Commissioner: Objection noted.

A ..Yes sir.

- Q Was that reputation good or bad? A Well it was bad.

BY BROWN:

- Q Who told you it was bad? A People generally all told me.
- Q Well now name one? A One that said it was bad?
- Q Yes sir? A I could mention several.
- Q Mention one? A Well the Chambers, one or two of the Chambers.
- Q They was the same Chambers about which Charley McClellan testified?
- A I don't know what Charley McClellan testified to.
- Q Well now when you say the Chambers who do you mean? A The Chambers family.
- Q What are their names? A There are several of them, big family of the Chambers, William Chambers, Teece Chambers and there were several of them.
- Q Who else told you that L. D. Daniels reputation for truth and veracity was bad? A Well I never paid any attention to who it was bit it was generally spoken.
- Q Who generally spoke it? A All of them.
- Q Name some of them? A Well Charley McClellan.
- Q Charley McClellan is a witness in this case? A I don't know.
- Q He is here isn't he? A Yes sir.
- Q He came in this room and testified just before you did? A I don't know, I wasn't out there, he might have.
- Q Well who else? A Well there are lots of them, I don't recollect their names, it is the general impression of the people.
- Q Now you have named the Chambers boys and Charley McClellan, can you name any one else? A Not in particular, there are lots of them.
- Q When was it Teece Chambers told you he would not believe L. D. Daniels on oath? A He never told me that.
- Q Well did William Chambers tell you that? A He never told me that.
- Q When was it Charley McClellan told you? A I have heard him say several times.
- Q When? A I never set the date down.
- Q When was the first time? A I don't recollect.
- Q When was the last time? A I don't know.
- Q Did he ever? A Yes.
- Q Well when? A I told you I don't recollect, I heard him tell it to a crowd.
- Q Who was in the crowd besides you and McClellan? A I don't know, I never looked around to see who was in the crowd.
- Q Was there any one in the crowd when he told you that? A It was just the general impression of the people.
- Q Was there any one else in the crowd? A Lots of them.
- Q The only person you remember was Charley McClellan? A He was talking.
- Q He is the one that did the talking? A Yes.
- Q And he is the one that is a witness here today? A I guess so.
- Q Where was this conversation held when Charley McClellan told you he would not believe L. D. Daniels on oath? A In Claremore.
- Q Whereabouts? A In the town.
- Q In the north, south, east or west? A Neither one, about the middle.
- Q In what place? A On Main Street.
- Q What place of business? A Well, several places of business along there.
- Q Name one? A Close to the Drug Store, close to the Hotel, and close to the restaurant on the public street there between all those houses.
- Q Now when was it? A I don't know exactly I never set the date down.
- Q What is your best judgment? A It has been sometime ago.
- Q Was it 20 years ago? A No.
- Q Was it five days ago? A It has been longer than 5 days ago.

- Q Give your best judgment? A Do you want me to tell the day.
 Q I want you to tell as near as you can? I told you as near as I can, it was on the street where he said it.
 Q You don't know when it was? A No.
 Q You don't know where it was? A I told you where it was.
 Q Could you swear it was on Main street? A Yes.
 Q Can you give the name of a single individual outside of Mr. McClellan who were present when you had this conversation? A I told you once, I don't know who all were around there.
 Q But you did know Charley McClellan? A Yes, because he was talking.
 Q Were you looking at the rest of them? A Yes, I sometimes looked around.
 Q How did this conversation come up? A Well I don't recollect how it come up, what first started it or nothing of the kind.
 Q All you know----? A I heard some of them, some men made a remark and said we understand that they are going to get after L. D. Daniels about swearing some folks in on the roll.
 Q That is since McClellan was subpoenaed down here as a witness?
 A I don't know as it was.
 Q How long have you known L. D. Daniels? A For a number of years.
 Q Where does he live now? A I don't know exactly where but way up towards Coffeyville somewhere.
 Q Have you ever been to his house? A No sir.
 Q Do you know what his post office address is? A No sir.
 Q Do you know how far he lives from the railroad? A No sir.
 Q You don't know where he lives do you? A I know he lives up the other side of Claremore.
 Q How do you know? A He said so.
 Q How long did he live in and around Claremore? A A year or two.
 Q Have you talked with anybody about this case since you have been here? A No.
 Q Not a soul? A No.
 Q Did you tell anybody that you had had a conversation with some parties in which Mr. McClellan told you that the reputation of L. D. Daniels for truth and veracity was bad? A No.
 Q Have you had a conversation with any man in which you have told him? A No.
 Q Then will you explain to this Commission why it was you were subpoenaed here as a witness?

Mr. Davenport: I object to that, it isn't necessary why he should explain why he was here as a witness.

On Behalf of the Commissioner: Objection noted.

- A As far as that is concerned, I haven't talked to any of the Commission.
 Q But have you talked with anybody else representing the Cherokee Nation? A I have talked with lots of people but not in regard to the case.
 Q Did you know that you were going to be asked when you came upon this witness stand as to the reputation of L. D. Daniels in the community in which he lives in regard to his truth and veracity?
 A No, I was subpoenaed down here in the L. D. Daniels case.
 Q Didn't you have a conversation out in the hall just awhile ago with Joe Davis in which you stated that you didn't know anything about L. D. Daniels reputation? A I don't know Joe Davis.
 Q Do you know Lum McGair? A Yes, we were all talking out there and I have found out here since I have been here and I said if the balance of them didn't know no more than what I do, I don't know what they will do.

- Q You say you have found out since you came here what you came here for, now you did have a conversation out there in the presence of Joe Davis and Lum McWair? A Yes.
- Q That was prior to the time you were called in here to testify?
- A Yes.
- Q At that time didn't you state that you didn't know anything on earth about the reputation of L. D. Daniels? A No/

W I T N E S S E X C U S E D .

GEORGE W. CLARK RECALLED:

BY LOUIS T. BROWN:

- Q Mr. Clark you are a citizen of the Cherokee by blood? A Yes sir.
- Q You naturally have some prejudice ag inst persons claiming citizenship by reason of the fact that they were former slaves of Cherokee Indians?

Mr. Davenport: I object to that, he has got no right to call and make a witness his own and show his prejudice or bias one way or another.

On Behalf of the Commissioner? Objection noted.

- A I don't know as I have. I think it was a bad Treaty that put them in but then I have got to abide by it.
- Q You would not swear that you haven't? A Yes I would swear that I have none against those that returned within six months after the ratification of the Treaty. I have been witness for several of them in their behalf where they returned.
- Q You have testified in a great number of freedmen case for the Cherokee Nation? A I have testified in several, yes.
- Q You are the same Mr. Clark who testified that the Horse Creek Fight occurred in 1867, are you not? A I am the same identical man.

W I T N E S S E X C U S E D .

JERRY FOSTER, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q What is your name? A Jerry Foster.
- Q What is your post office address? A Eaton, Indian Territory.
- Q About what is your age? A I am 50 somewhere, I don't know exactly what.
- Q Do you know the applicant William Tucker? A Yes sir, I have known him all my life.
- Q When did you see him, if at all, for the first time after the close of the war?

Mr. Davenport: Now the representative of the Cherokee Nation object to going into the original case unless it be understood now that if testimony be brought out on the original case that this case be continued until such a time that the representatives of the Cherokee Nation have time to get testimony to rebut it, it being understood that the case set today was on the ground for the impeachment of Luster Foreman and L. D. Daniels.

Louis T. Brown: The applicants desire to state that this case was sent back to the Commissioner for the purpose of permitting the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, and also stated that the applicants would have an opportunity to rebut what testimony the Cherokee Nation might introduce. The applicants desire at this time to prove by the witnesses they shall introduce that when L. D. Daniels and Luster Foreman testified that when the applicant was in the Cherokee nation in the fall of '66 that they testified to what was true, and in the mind of the applicants it is clearly admissible.

On Behalf of the Commissioner: Objection noted.

- A The first time I seen him after the war we moved from Fort Gibson upon Grand River and I saw him at Bunk Markham's store, in the fall of '66.
- Q Had you known him prior to that time? A Yes sir, ever since I was a boy.
- Q And when you saw him at Bunk Markham's in the fall of '66 did you recognize him? A Yes sir, I did.
- Q Have you known him continuously since that time? A Yes sir.
- Q Where has he resided? A He has been living up ~~xxx~~ here on Cabin Creek quite awhile, for years.

BY MR. DAVENPORT:

- Q How old are you now Jerry? A I am 50 some odd.
- Q And how near did you live to Tucker before the war? A It must have been, not over ten miles. if that far.
- Q What became of you during the war? A I stayed here at Fort Gibson.
- Q What relation are you to Tucker? A I am no relation to him.
- Q By marriage? A Only by marriage.
- Q What is that? A I married his daughter.
- Q Your wife then is William Tucker's daughter? A Yes sir, she is.
- Q Well after the war you moved from Fort Gibson to what place? A Upon Grand River to the Martha Vann place.
- Q Who was living there? A Sam Downing and Lewis Downing. And lot of Indians around there.
- Q That is on the west side of Grand River? A No sir, on the east side of Grand River.
- Q What time of the year did you go up there? A We moved up there in the spring along in April when we left Fort Gibson.
- Q That was what year? A It was in '66. '65 I raised a crop over there in the bottom at Gibson and in '66 moved upon the Lewis Downing place.
- Q And Tucker came there when? A It was in the fall of '66 when I saw him there at Bunk Markham's store.
- Q Where was the store? A It was right up a hollow there.
- Q How far from the Martha Vann place? A It must be three miles.
- Q Was it on the west side or east side of the Grand River? A On the east side.
- Q Near whose place was this store you saw him at? A It was Bunk Markham's place.
- Q Was Bunk living there at that time? A Yes sir, running a store there.
- Q You never saw William Tucker at that time until after Bunk Markham opened up his store? A He had his store opened up when I went there.

- Q Who was with Tucker at that time? A He was the one, I know there was a lot of people that lived around there, Eli Vann, George Vann, Spring Creek George--
- Q Well where did Tucker locate then? A Over there close to Joe Vann's, in there somewhere.
- Q Don't you know where he located? A No sir, I don't, I didn't go over to where he lived.
- Q Then how long after that until you saw him again? A I saw him several times until I moved back to Gibson.
- Q How ~~often~~ near have you lived to Tucker since that time? A Of course, I don't live right at him, I have got a place right at him, I have known him all my life.
- Q When were you and his daughter married? A About 16 years.
- Q Where was Tucker living when you and she were married? A On Cabin Creek where he is living now.
- Q What part of Cabin Creek? A 12 miles south of Chetopa.
- Q How long has he been living at that place? A It has been ever since, went up there in '67, seems like as near as I can remember.
- Q Were you up there at that time to know that he went there in 1867? A I passed through there from up there on Grand River as I be going to the Lynch settlement. We boys used to go up there to work.
- Q You didn't pass his house going to the Lynch settlement from Fort Gibson did you? A No sir, I was going to the State to work.
- Q How many years has Tucker lived in the state since the war? A I don't know of him living in the State only what little time he go to town when he was trading.
- Q He never came back to Fort Gibson after the close of the war? A Yes sir, my mother saw him there.
- Q Do you know of your own knowledge? A I am just going what my mother told me.
- Q I am asking you what you know yourself? A I saw him on Grand River.
- Q You moved from Fort Gibson up there? A Yes sir, early in the spring, in April.
- Q You hadn't seen Tucker in Fort Gibson before you moved away from there? A No sir, I hadn't.
- Q And you didn't see him until after Bunk Markham opened his store up there? A Yes sir, he was running the store there then.
- Q And since that time you have been seeing William Tucker upon Big Cabin near the Kansas line? A Yes sir.
- Q You live where? A Up here on Gooseneck on Cedar Creek.
- ON BEHALF OF THE COMMISSIONER:
- Q About how old are you? A I am 50 some odd I don't know exactly 53 or 54.
- Q You stated that you know the applicant, William Tucker, before the war? A Yes sir, I did.
- Q Do you remember seeing him before the war? A I guess I have.
- Q Do you remember? A Yes sir.
- Q About how old were you then? A I don't know just exactly I was a slave, I was raised up like a hog, they didn't tell us out ages, I was a great big boy, I drove teams during the war.
- Q Are you a Cherokee freedman yourself? A Yes sir.
- Q Is your wife living now? A Yes sir.
- Q Her name is Sarah? A Yes sir.
- Q Are your children Clara, Clarence, Carrie, and Cora all living? A Yes sir.

BY LOUIS T. BROWN:

- Q Does your name appear upon the Authenticated roll of 1860? A Yes sir.

W I T N E S S E X C U S E D .

COLUMBUS MCNAIR, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Columbus McNair.
Q Your post office address? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q Does your name appear on the Authenticated roll of 1880? A Yes sir.
Q Do you know the applicant, William Tucker? A Yes sir.
Q About how long have you known him? A I have known him ever since about the commencement of the war.
Q When did you see him for the first time after the war? A The first time I ever saw him after the war was along about in November, '66.
Q Where? A In Fort Gibson.
Q In the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q What was that when you saw him after the war? A I saw him in November '66.
Q Where? A Fort Gibson.
Q How old was he then? A I don't know anything about his age.
Q How old were you? A I guess I must have been about 16 or 17.
Q How old are you now? A I am 55, next birth day 56.
Q How long had you known William Tucker then, before you saw him at Fort Gibson? A When I first got acquainted with him it was at Webbers Falls along about the commencement of the war.
Q How old were you when the war commenced? A I was 11 years old.
Q You saw him at Fort Gibson in November, 1866? A Yes sir.
Q How many did you see there at that time? A I don't know.
Q Did you see a whole host of people there in '66? A I saw lots of them, I saw lots of soldiers there.
Q About how many cases have you testified in? A Not a great many that I know of.
Q How many different places were you in November, 1866, and saw people? A I come right on down from Sequoyah District and come up there in November and stopped there with Joe Kell and went on from there to Cabin Creek.
Q How long were you with William Tucker there at Fort Gibson at the time you saw him? A I never saw him there only about one day.
Q You saw him about one day? A Yes sir.
Q You had seen him once or twice before the war? A Yes sir, he was over frequently around the place there.
Q Did he live near Webbers Falls before the war? A No sir, he was over there at Bill Holts.
Q Where were you? A I stayed right over there close to Bill Holts at McDaniels.
Q You were a small boy? A Yes sir.
Q And Tucker was a grown man? A Yes sir.
Q And you just met him at Fort Gibson and recognized him as being the same man? A No sir, he made himself known to me and I remembered who he was.
Q Tucker recognized you as being the boy he had seen? A Yes sir.
Q And he made himself known to you? A Yes sir.
Q When did you think of that first after you went away from there that you had met Tucker there at Fort Gibson? A Yes sir, I have seen him frequently since.
Q Have you testified in this case before? A No sir.
Q And he has been an applicant for citizenship for the last 25 years? A I don't know that.
~~Q Tucker recognized you as being the boy he had seen?~~
Q You know that he has not been a recognized citizen? A I couldn't say that, I don't know.

- Q When he come to get you to testify he told you he had not been recognized? A Well I don't know Mr. Davenport.
- Q You are the same Columbus McNair that has testified in many cases? A Yes sir.
- Q There is no other colored man living by the name of Columbus McNair that knows as many freedmen, colored persons, as you? A I don't know of any Mr. Davenport.

BY LOUIS T. BROWN:

- Q In addition to the freedmen cases you have testified in on part of the applicant, you have also testified on behalf of the Cherokee Nation in several cases? A In some cases, yes.
- Q When the Commission to the Five Civilized Tribes commenced to make a roll of freedmen you were in their employ were you not? A Yes sir.
- Q And you were used as a witness in several cases? A In some cases I was, yes.

BY MR. DAVENPORT:

- Q Tell me one of the cases you have testified in for the Cherokee Nation? A Well of course I can't think of them.
- Q Well I want to know? A I know there was some cases they called me on for the Cherokee Nation, of course I was satisfied the people were not citizens.
- Q You can't remember a single case you were called? A Yes sir, I can remember some of them.

WITNESS EXCUSED.

Mr. Davenport: The representative of the Cherokee Nation ask that the case be continued until February 8, 1906, to enable them to get testimony to rebut the testimony of Jerry Foster and Columbus McNair to the new matters brought out today in regard to the return of the applicant.

Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to give the Cherokee Nation an opportunity to show that when L. D. Daniels and Luster Foreman testified that the applicant returned within the time prescribed by the Treaty of 1866 that they testified falsely; that no new testimony has been introduced; that the Cherokee Nation knows that the only points involved in this case is as to whether or not the applicant, William Tucker, returned to the Cherokee nation prior to February 11, 1867; that they knew of this matter and certainly knew at that time that we would rebut any testimony tending to disprove that fact.

Mr. Davenport: The representative of the Cherokee Nation have not undertaken to rebut any testimony today tending to prove the fact relating to the return of the applicant, but the applicant has offered in testimony by new witnesses upon that point which was not set down for hearing, and the representative of the Cherokee Nation so stated that the time it was offered that if it was offered they would ask time to look the matter up and offer testimony if it could be secured to contradict the testimony offered by the applicant today upon the question of the applicant's return.

Louis T. Brown: The applicant desires to state that this application was made on May 16, 1901, and that the Cherokee Nation knew at that time that the applicant would contend that he was a slave of a citizen of the Cherokee Nation during the war and that he returned within the time required by law, and they have had since that time to introduce testimony tending to disprove that fact and that the only contention they have made is that the evidence of L. D. Daniels and Luster Foreman could not be believed, to which we have answered today, and certainly objects to this case being allowed to stand open until at a time when they can search the country and the states and possible secure some testimony that might tend to prove that the applicant did not return within time.

On Behalf of the Commissioner: The motion of the representative of the Cherokee Nation will be granted and the case continued until February 8, 1906, at nine o'clock A. M.

Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 30th day of January, 1906.

Myron White
Notary Public.

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[Signature]

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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 8, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application f
for the enrollment of WILLIAM TUCKER ET AL., ~~Cherokee~~ Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.

For Cherokee nation, James S. Davenport.

The hearing of this case was continued from January 25,
1906, upon motion of Attorney for the Cherokee Nation, until
February 8, 1906, at which time the following proceedings
were had.

J. H. MCGHEE, being first duly sworn, testified as follows:

BY MR. DAVENPORT:

- Q What is your name? A J. H. McGhee.
Q What is your post office? A Kinnison, I. T.
Q What is your age? A I am 47, going on 48.
Q How long have you lived in the Cherokee Nation? A I was born in
the Cherokee nation, and I went out a little while time of the
war, and come back here in 1868.
Q When you came back to the Cherokee Nation in 1868, what part of
the Cherokee nation did you locate in? A Upon Big Cabin about
20 miles above Vinita.
Q Do you know a colored man named William Tucker who lives up
there? A Yes sir.
Q How long have you known him? A To the best of my recollection,
he came there in the fall of 1868.
Q Was he there when you returned? A No sir, I come in the spring.
Q How far did he locate from where you are living? A About two
miles from where I live
Q Where has he lived since that time? A Ever since I knew him to
come there.
Q Have you lived at or near the place since that time? A Yes sir.
Q You came as I understand you on Big Cabin in the spring of 1868?
A Yes sir.
Q And sometime after that William Tucker came into the locality
and located in about two miles of where you have lived? A Yes
sir.
Q And you and he have lived there that distance apart since that?
A Yes sir.
Q You didn't know William Tucker before the war? A No sir, not
until he come there.

BY LOUIS T. BROWN:

- Q Were you in the neighborhood of where you now live before William
Tucker? Who came to that neighborhood first, you or William
Tucker? A I come with my uncle, I came in the spring and to the
best of my knowledge he came in the fall or winter.

- Q Do you know where he came from? A No sir.
Q You know nothing then of his whereabouts until after 1868?
A No sir.

WITNESS EXCUSED.

Mr. Davenport: The representative of the Cherokee Nation most humble move the Commission to continue this case until March 8, 1906, on the ground of newly discovered evidence which they were not in possession of and could not learn of until the 7th of February, 1906. They believe they believe they can show by the newly discovered evidence that the principal applicant in this case did not return to the Cherokee Nation until the fall of 1868. They further state in their motion that this is not made for delay but in order to secure the facts, if possible, and that the information upon which they base their motion is information obtained from the witness who is present today from other parties in conversation after he had been subpoenaed as a witness.

By Louis T. Brown: To which the applicant objects for the reason that this case was remanded only to impeach the reputation of L. D. Daniels and Luster Foreman, and for the further reason that this application was made on the 16th day of May, 1901, and that the Cherokee Nation has had since that time to secure testimony tending to disprove the right of the applicant to be enrolled as a Cherokee freedman; that the case was continued on the 25th day of January, 1906, until this day and the Cherokee Nation was given an opportunity, and has had since that time to get the testimony that they now say they can produce.

On Behalf of the Commissioner: On account of the character of the testimony offered in rebuttal by the applicants on January 25, 1906, and in order that the present hearing before this office may be a finality in this case, the motion of the Attorney for the Cherokee Nation will be granted, and the case continued until Thursday, March 8, 1906, at nine o'clock A. M.

By Louis T. Brown: To which the applicant excepts.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 9th day of February, 1906.

Myron White
Notary Public.

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Sarah J. Carter

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

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COMMISSIONER

Cherokee Freedmen D 329, 330, and 739.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., APRIL 4, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicant, Louis T. Brown.

For Cherokee Nation, L. B. Bell and J. S. Davenport.

ON BEHALF OF THE COMMISSIONER:

The records of this office show that on February 8, 1906, this case was continued, on motion of the Attorneys for the Cherokee Nation, until March 8, 1906; that on February 27, 1906, on motion of the Commissioner to the Five Civilized Tribes, the case was continued to March 29, 1906, of which appointment action the applicants, their attorney, and the attorneys for the Cherokee Nation were advised on February 27, 1906, and that on March 21, 1906, by agreement between the attorney for applicant and the attorneys for the Cherokee Nation, the case was continued from March 29 to April 4, 1906, at Vinita, Indian Territory.

On this April 4, 1906, the case being called, and the Cherokee Nation announcing that it has no testimony to introduce, the following proceedings were had in behalf of applicants.

JULY MARTIN, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

Q What is your name? A July Martin.

Q What is your age? A About 44.

Q Post office? A Chelsea.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Were you a slave? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir, I know him.

Q About how long have you known him? A I have known him ever since I was a boy, ever since I can recollect.

Q Did you know him during the war? A No sir.

Q When and where did you first become acquainted with William Tucker? A He come to our house down on Grand River when we lived on Grand River, come down there in the fall of '66, as near as I can recollect, and camped there about three weeks and left and went on down below us, said he was coming down about Tahlequah.

Q When did you return to the Cherokee Nation? A In the spring of '66.

Q And it was the fall of the same year that you saw the applicant? A Yes sir.

Q When did you next see him? A It must have been about two or three years when he come on back moving upon Cabin where he lives now.

Q Is that in the Cherokee Nation? A Yes sir.

BY MR. DAVENPORT:

- Q You are 44 years old now I believe you say? A Yes sir.
- Q How how old were you in 1866? A I don't know how old, when we come down here I was big enough to -----
- Q Well about how old were you? A I don't have no idea how old I was.
- Q You were about 4 years old, weren't you July? A I don't know whether I was or not.
- Q Had you ever seen William Tucker before the time you saw him down there on Grand River? A If I did, I don't know it.
- Q Whom were you living with? A My father.
- Q What is his name? A Aaron Martin.
- Q What time of the year was it you saw William Tucker down there? A I don't know just exactly, it was in the fall.
- Q Give me some reason for knowing it was in the fall? A Well we had done laid by corn, and it was along after that when he come to our house.
- Q Had you helped cultivate a crop that year? A Yes sir.
- Q And you were done laying by corn? A Yes sir.
- Q Did you have any roasting ears? A Yes sir.
- Q The corn was still in roasting ears? A Yes sir.
- Q Had you begun picking cotton? A Hadn't commenced raising raising cotton then.
- Q Had you had any frost? A I don't recollect whether there was any frost or not.
- Q How much of a corn crop had you made that year? A I don't know how much.
- Q You helped work it? A Yes sir.
- Q Can't you remember how much you cultivated that year? A No sir.
- Q Can't you remember how much your father cultivated? A No sir, we never had many acres, just put in a little piece.
- Q On whose place did you make the corn in 1866? A Arley Hicks' place.
- Q What side of Grand River was this side located? A It was on the west, end of Lynch's Prairie.
- Q That was there between Grand River then and Lynch's Prairie?
- Q It was right in the edge of Lynch's Prairie and right close to the river bottom.
- Q I say it was right in the end of the Prairie and the edge of the bottom? A I say it was right close to the river bottom.
- Q What post office is that near now? A I don't know what post-office is near there now, I haven't been down there for a good while.
- Q Hicks' farm is where you saw William Tucker? A Yes sir.
- Q Who all were with him at that time? A Joe was with him, and Steve Vann was with him. Joe Davis was with him, and I believe there were two girls with him.
- Q Well they had how many wagons? A One wagon I think was all.
- Q You know don't you? A Well there was two wagons with Uncle Joe Rogers'.
- Q Have you ever testified in this case before? A No sir.
- Q When did you first tell William Tucker that you remember seeing him down there in 1866 on Grand River? A I never told him, he come and asked me if I recollect seeing him.
- Q Well when was that? A That was yesterday.
- Q Now you haven't talked with any one about having seen him down there on Grand River in 1866 until yesterday? A No sir.
- Q And he come and talked with you, and you remember seeing him down there in 1866, 40 years ago? A Yes sir.
- Q And you remember all about it? A Yes sir, I remember all about it.

- Q Is your father living or dead? A He is dead.
- Q Any of the rest of your family living that is living down there now? A Just Aunt Sarah Ann, one of my aunts.
- Q You don't know where he went? A No sir.
- Q You didn't see him any more for two or three years? A Two or three years, yes sir, and he come on back by our place.
- Q Can you remember whether you were out of the Indian Territory during the war or not? A Yes sir.
- Q Did you go north or south? A Went north.
- Q When did you say you returned? A In the spring of '66.
- Q What time in the spring? A I don't know exactly what time it was.
- Q Well was the leaves put out or grass begin to grow when you came? A Yes sir.
- Q Had they commenced planting crops around anywhere? A Yes sir.
- Q Now whose place did you pass that you saw them planting crops as you came back? A I don't know whose place.
- Q Well you remember seeing William Tucker? A Yes sir, I remember seeing him but I don't remember everybody's place I passed.
- Q Give me some one? A Well I don't know.
- Q Can't you remember a single one who was planting crops that you passed as you came down? A No sir.
- Q How did it happen that you came down in the spring of 1866? A I don't know.
- Q You come down for the purpose of establishing your right in the Cherokee Nation under the Treaty? A I never did know nothing about that Treaty.
- Q Not in your life? A Not until here recently.
- Q You were not an applicant before the Wallace roll as a Cherokee freedman? A Yes sir.
- Q July what year was the Wallace roll made? A I don't know.
- Q What year was the Kern-Clifton roll made? A I don't know that.
- Q What year was the Dixon payment? A I don't know that.
- Q Were you living in the Territory then? A Yes sir.
- Q It has been a very much shorter time since the Wallace roll was made than 1866, hasn't it? A Yes sir.
- Q And it has been a much shorter time since the Kern-Clifton roll was made than 1866, hasn't it? A Yes sir.
- Q Why is it you can't remember those years the same as the year you saw William Tucker? A They always said it was '66.
- Q Do you mean to tell this Commission that in your application for enrollment you stated that you and your father came back in the spring of 1866? A Yes sir.
- Q You are positive of that fact? A Yes sir.
- Q Now I will ask you if it is a fact that your father had returned to the Cherokee Nation, planted, cultivated and had a crop of corn in rearingear before you saw William Tucker in the Cherokee Nation? A Yes sir.
- Q Your father had returned and you with him to the Cherokee nation, had planted a crop and cultivated it and it was in rearingear in other words it was in the fall following the spring he had planted the crop when you claim to have see William Tucker?
- A Yes sir, we made a crop before I saw William Tucker.
- Q Which one of the Steve Vanns was with William Tucker when he come back? A This colored fellow around here in town they call Steve Vann.
- Q The one that lives around somewhere here in the neighborhood of Bluejacket or Vinita now? A Yes sir.

WITNESSES EXCUSED.

DANIEL SANDERS, being first duly sworn, testified as follows:

BY LOUIS T. BROWN:

- Q State your name? A Daniel Sanders.
Q Your age? A 61 going on 62. I was born in 1844.
Q Your post office? A Centralia.
Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know the applicant, William Tucker? A Known him ever since I could talk.
Q Was he a slave? A He was.
Q When did you return to the Cherokee nation after the close of the war? A In 1866.
Q After your return did you see the applicant, William Tucker?
A Yes sir, I did.
Q When and where was the first time you saw him? A I saw him down there on Spring Creek.
Q When was that? A That was along in May, 1867.
Q What were you doing on Spring Creek, 1867? A I come from Fort Gibson up there to,--what was that Ross name--Henry Ross, and come over there and stepped in that neighborhood there.
Q You had known the applicant prior to that time? A Yes sir.
Q Recognized him when you saw him? A Well I don't know about that, he was there, had in a crop.
Q Well I say you recognized him? A Yes sir, I recognized him.
Q Has he resided in the Cherokee nation ever since you saw him on Spring Creek in 1867? A Ever since so far as I know.
Q You have seen him from time to time in the Cherokee Nation?
A Yes sir.

BY MR. DAVENPORT:

- Q You don't know anything about when he returned to the Cherokee Nation of your own knowledge? A Well I don't know just exactly the date.
Q The first time you ever saw him in the Cherokee Nation after the war was in May 1867? A May, 1867.

WITNESSES EXCUSED.

JULY MARTIN RECALLED:

BY MR. DAVENPORT:

- Q How many crops did you make on the Hicks place after you came back? A We made one.

WITNESSES EXCUSED.

JOE DAVIS, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Joe Davis.
Q Your age? A 61.
Q Your post office? A Vinita.
Q Were you present when July Martin and Daniel Sanders gave their testimony in this case? A Yes sir.

ON BEHALF OF THE COMMISSIONER TO MR. DAVENPORT:

Q Do you desire to object to the introduction of the testimony of this witness on the ground that the rule in force with reference to witnesses who were going to testify leaving the ~~rule~~ when the other witnesses were examined?

MR. DAVENPORT:

We object for the reason that the witness had an opportunity to hear the other testimony.

ON BEHALF OF THE COMMISSIONER:

The testimony of the witness will be taken at this time, and the regularity of the taking of the same will be passed on.

BY LOUIS T. BROWN of witness:

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, William Tucker? A Yes sir.

Q How long have you known him? A All my life.

Q Do you know when the applicant returned to the Cherokee Nation after the close of the Civil war? A Yes sir.

Q When? A In the fall of '66.

Q Has he had a continuance residence in the Cherokee Nation since that date? A He has sir.

BY MR. DAVENPORT:

Q You say you know when he returned Joe? A Yes sir.

Q Where did he go during the war? A I don't know, I think he went north, he went up in Kansas somewhere.

Q You say you knew him all your life? A All except about two or three years during the war.

Q Where were you and he during the war? A I was in the Cherokee Nation during the war.

Q And the war closed, where were you? A At Fort Gibson.

Q In 1866 where were you? A At Fort Gibson part of the time and part of the time on Spring Creek.

Q It is not a fact as stated by July Martin that you returned with him to the Cherokee Nation? A It is a fact that I went up there and he done returned, and probably had been here a month or two. He had been down to Gibson gathering up us children.

Q Are you related to him? A His brother is my brother. My mother died when I was small, and old man Tucker raised me, my rights based on his rights.

Q Now with whom were you living at Fort Gibson when William Tucker came and got you? A With Uncle Fred Davis and Julie Martin.

Q What Cherokee or colored people or white people lived near you?

A I couldn't say, couldn't tell you, there was lots of them. I knowed pretty near everybody down there.

Q There were you and Tucker going when you came from Fort Gibson up to where Martin was living? A We were coming up to Uncle Fred Martin's, I think, hunting a daughter of his.

Q You know where you were going? A Well I think so, it has been a long time.

Q You say you came up there in the fall of the year? A Yes sir, I think it was.

Q And they had made a crop, Aaron Martin's folks had when you got up there? A Yes sir, I think they had.

Q Well you can remember what time of the year it was? A Yes sir, it was sometime in the fall.

Q Couldn't you tell whether they had a crop growing or whether they were gathering crops? A No sir, I don't.

Q You remember you were up there with Tucker? A I do.

- Q You don't know whether they were gathering corn or picking cotton?
A I know they were not gathering corn and they were not picking cotton.
Q Was it hot weather or cold weather? A It was getting along in the fall.
Q Was it cold enough to have an overcoat? A No sir, we didn't have no overcoats in this country them days.
Q Tucker had teams and wagons? A Yes sir, had a span of little old ponies and two or three other ponies he fetched down from Kansas with him when he come.
Q Do you know what point he came from Kansas? A I think he had been up around Manhattan.
Q Did he tell you this? A No sir, he told me since.
Q Did he tell you whether he ever lived any other place in Kansas?
A I think he was up about Fort Scott.
Q Did he tell you that? A I don't know whether he did or not.
Q You don't mean to say he come and got you and raised you and didn't tell you where he was in Kansas? A He said he was at Manhattan.
Q And Fort Scott? A Yes sir, I think he did.
Q Did he say anything about being at Napleton? A Yes sir, I believe he did.
Q Did he say anything about being at Burlington? A Yes sir, I think he did.
Q As a matter of fact he did tell you he lived in and around Burlington during the war? A No sir, I don't know whether he did or not.

WITNESSES EXCUSED.

Mr. Davenport:

The representatives of the Cherokee Nation move that the case be continued for further hearing at Muskogee, Indian Territory, April 12, 1906, in order that the nation may be able to put in rebuttal testimony against the testimony introduced today by the applicant of July Martin and others, it being testimony introduced that they could not anticipate, and that they are not now in a position to produce it today.

Louis T. Brown:

The applicant desires to state that this case was remanded for the purpose of giving the Cherokee Nation an opportunity to impeach the testimony of L. D. Daniels and Luster Foreman, that the record shows several weeks ago they introduced several witnesses along that line, and that this case has been continued twice since then on motion of the Attorneys for the Cherokee Nation, and the applicant now objects to it being continued again. That the Cherokee Nation knew that the time the original application was made the applicant would contend that he was a slave of a citizen of the Cherokee Nation and that he returned to the Nation within the time prescribed by the Treaty; that they have had since that time to secure testimony tending to disprove that fact, and I desire to further state that it is my understanding when this case was sent up here that it would be closed today, and for those reasons I certainly object to the case being left open and insist that it be closed today.

Mr. Davenport:

If the applicants had confined themselves to the proposition of the impeachment testimony for which this case was remanded, and had not today brought in testimony upon the original question, the Cherokee nation would have been in a position to have closed today, and would have been ready to have closed, but instead of doing so today they introduced testimony upon the original question of the return of the applicant, upon which the Cherokee nation had made no preparation, thinking that question was closed.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for the applicant will be noted and the motion of the Attorney for the Cherokee nation for continuance will be granted.

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Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 6th day of April, 1906.

B. P. Raenurs
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., APRIL 12, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of WILLIAM TUCKER, ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, Louis T. Brown.
For Cherokee Nation, J. S. Davenport.

It appears from the records of this office that the hearing in this case was continued from April 4, 1906, until April 12, 1906, on motion of the representatives of the Cherokee nation, at which time the following proceedings were had.

MR. DAVENPORT:

I want to introduce the testimony, in the William Tucker case, of Aaron Martin in his application, D 235, also of Andy Frye and Wilmore Hicks, for the purpose of contradicting the testimony given by July Martin and others at the last hearing, as to when William Tucker was at Aaron Martin's house, it being testified at that time by July Martin that they had returned and made a crop and the corn was in roastingear. This testimony offered shows when Aaron Martin returned.

The representatives of the Cherokee Nation also desire to introduce the testimony of July Martin taken in his own application for enrollment, Freedman D 348, for the purpose of contradicting his testimony given in the case now being heard. I desire also to introduce the testimony of Allen Lynch for the purpose of contradicting himself.

LOUIS T. BROWN:

The applicants object to the introduction of the testimony of Aaron Martin for the reason that Aaron Martin has never been called as a witness in this case, and the applicant has not had the opportunity to cross examine him in his own behalf. The applicant objects to the testimony of Wilmore Hicks, Andy Frye and Allen Lynch being made a part of the record in this case for the reason that the three last named persons are living and could appear before the Commissioner in person and give their testimony, at which time the applicant would have an opportunity to cross examine them in his behalf. That when the Commissioner sat at Vinita April 4, 1906, Allen Lynch was present at that time and testified in another case and the Cherokee Nation could have taken his testimony at that time relative to this matter.

ON BEHALF OF THE COMMISSIONER:

The objection of the Attorney for applicants will be noted, and the request of the Attorneys for the Cherokee Nation will be complied with and the testimony considered for what it is worth.

The Attorneys for applicants and Cherokee Nation announce that they have no further testimony to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 14th day of April, 1906.

D. P. Rasmus
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
VINITA, I. T., MAY 10, 1901.

In the matter of the application of Aaron Martin for the enrollment of himself and three children as Cherokee freedmen, he being sworn and examined by Commissioner T. B. Needles testified as follows:

- Q What is your name? A Aaron Martin.
Q How old are you Aaron? A I guess about 67 or 68
Q What is your post office address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I think there are three on the roll with their mother.
Q Has their mother been here? A Their mother is dead.
Q What are the names of the three children? A Frances Martin.
Q How old is Frances? A 13.
Q The next one? A Neely.
Q How old is Neely? A About 9.
Q The next one? A Phoebe.
Q About how old is Phoebe? A About 7.
Q What was the mother's name of these children? A Cora Adams.
Q Her name was Cora Adams before she married you? A Yes sir.
Q About how old would Cora be if she were alive? A I don't know sir.
Q Have you been recognized by the Cherokee authorities as a Cherokee Freedman? A Yes sir.
Q Is your name on the roll of 1880? A I don't know, sir; it ought to be.
Q Have you ever applied to be enrolled by any other tribe or nation? A No sir.

The 1880 authenticated roll of the Freedmen of the Cherokee Nation examined and the name of the applicant not found thereon.

The 1896 census roll of the Freedmen of the Cherokee Nation examined and the names of the applicants not found thereon.

- Q Did you receive your money known as the Cherokee Strip money?
A Yes sir.

The Ferns Clifton Roll of the Freedmen of the Cherokee Nation examined and the names of the applicant is found on page 118, No. 2939, Aaron Martin, Delaware District.

- Q Aaron, were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Martin.
Q Was he a Cherokee citizen? A Yes sir.
Q By blood? A Yes sir.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where to? A To Kansas.
Q When did you return from Kansas after the war? A In '66.
Q Have you been living in the Cherokee Nation ever since 1866?
A Yes sir.
Q Your name is not found on the roll of 1880, do you know the reason why? A No sir.
Q Did you ever apply to the Cherokee Council to have your name placed on the roll of 1880? A No sir, I didn't.
Q Have you any witnesses here? A Yes sir.
Q Who are they? A Cap Hicks, and Andrew Frey.

Aaron Martin--2.

- W. W. Hastings: Where did you come to when you come back? A I come to Dr. Thompson's place over there to Grand River.
- Q Are you a blacksmith? A No sir.
- Q Another Martin is a blacksmith? A Yes sir.
- Q Who was living down there at the Thompson place when you come back? A Why Mr. Jesse Cockrum was living at Johnson Thompson's place when I got back.
- Q How long did you live at that place? A I stayed there until along sometime about Christmas, I reckon; I went down to Cap Hicks' mother then.
- Q About what time did you come down to the Cherokee Nation after the war--what time in '66? A It was some time in the fall.
- Q You have lived there ever since? A Yes sir.

ANDREW FREY, being sworn and examined by Commissioner T. B. Needles, on part of the applicant, testified as follows:

- Q Is your name Andrew Frey? A Yes sir.
- Q How old are you? A 66.
- Q What is your post office? A Vinita.
- Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.
- Q Freedman? A Yes sir.
- Q Do you know Aaron Martin? A Yes sir.
- Q How long have you known him? A Why, I don't know, sir, just exactly how long, ever since we were boys.
- Q Was he a slave? A Yes sir.
- Q To whom did he belong? A He belonged to John Martin.
- Q Do you know where Aaron Martin was in the year 1866? A Yes sir.
- Q Where? A He was over here across the river part of the year 1866.
- Q In the Cherokee nation? A Yes sir.
- Q Did he go out of the Cherokee Nation during the war? A Yes sir.
- Q Where did he go? A He went to Fort Scott and from Fort Scott to Garnett, all around in there. He didn't stay at one place long.
- Q Did he return? A Yes sir.
- Q In what year? A In '66.
- Q Are you any relation to him? A No sir.
- Q Was he married at that time? A Yes sir.
- Q Was his family with him? A Yes sir.
- Q Did his family return with him? A Yes sir.
- Q Were you a slave? A Yes sir.
- Q To whom did you belong? A I belonged to Mary Clark.
- Q Were you in Kansas with Aaron Martin? A Yes sir.
- Q Did you return with him? A Yes sir.
- Q Have you known Aaron Martin well since that time? A Yes sir.
- Q Has he lived in the Cherokee nation since? A Yes sir.

- W. W. Hastings: You say he come back with you? A Yes sir.
- Q Who else come along? A There were lots of others, I don't recollect now who all come along; there was a big crowd of us.
- Q Well, name some of the rest of them? A Peter Williams.
- Q Anybody else? A Tobe Sornaher, Jake Martin's family.
- Q Anybody else? A I don't know how else.
- Q That is all you can remember? A Yes sir.
- Q What time in the year did he come back? A He come back--we got back over to Dr. Thompson's place the 3rd of October, '66.
- Q Any colored folks there when you got there? A No one at all.
- Q You are positive about that are you? A Yes sir, no one at all there.
- Q That was in October, '66? A Yes sir.
- L. B. Bell: Who got back there first, you or Judge Daniels family? A No.

Aaron Martin--3.

FILMORE HICKS, being sworn and examined by Commissioner Needles, on part of the applicant, testified as follows:

- Q What is your name? A Filmore Hicks.
Q What is your age? A 53.
Q What is your post office address? A Vinita now.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q By blood? A Yes sir.
Q Do you know the applicant, Aaron Martin? A Yes sir.
Q How long have you known him? A I have known him about nearly forty years I reckon; I knew him before the war.
Q Was he a slave? A Yes sir, I suppose he was.
Q Who did he belong to? A John Martin.
Q Do you know whether he went out of the Cherokee Nation during the war? A Well, I suppose he was; he wasn't around in the neighborhood.
Q When did you first see Aaron Martin after the war? A Late in the fall of '66.
Q Where at? A At my mother's.
Q Have you known him since that? A Known him ever since.
Q Has he always lived in the Cherokee Nation since that? A Yes sir.
Q Did he have a family at that time? A Yes sir.
Q Was his family with him? A Yes sir, they were up at Dr. Thompson's place; he come to my mother's and wanted to rent some land.
Q He rented some land? A Yes sir.
Q Did he farm that land in the fall of '66? A No sir, in the fall of '67.
Q W. Hastings: Who farmed it in '76? A Young Wolf, my mother's husband.
Q D'd you ever have a renter after you had this fellow? A No, we had some hired hand, not any renter.
Q How far did you live from the mouth of Cabin Creek? A We just lived across the river; I reckon it isn't over three-quarters of a mile.
Q Opposite the mouth? A Just below a little on the other side of the river.
Q Your mother had a farm there that year? A Yes sir.
Q Are you positive this man tilled land there in the year '67? A Yes sir.
Q Do you know what he cultivated? A He put in corn.
Q About what size farm did your mother have that year? A About 20 or 25 acres.
Q You were at home then with her? A Yes sir.
Q What was your age then? A 17 or 18.
Q Did your mother have any other help besides you? A A boy older than I am and two younger than I am.
Q You never helped to cultivate the place that year? A Not much.
Commissioner: Did you draw money for Frances and Neely? A Yes sir.
of Applicant.

The Kerna Clifton roll of the Freedmen of the Cherokee Nation examined and the names of the applicant's two older children are identified thereon as follows:

Page 23, No. 568, Frances Adams, Delaware District.

Page 23, No. 569, Nealey Adams, Delaware District.

Aaron Martin--4.

- Q Are their names Adams or Martin? A Martin is their name.
Q You didn't draw any money for Phoebe? A No sir, she was too young they said.
Q These children all alive and living with you at this time?
A Yes sir.

The 1880 authenticated roll of the Freedmen of the Cherokee nation examined and the name of the applicant's wife is found on page 216, No. 44, Cera Adam, Delaware District.

.....

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) H. G. Rethenberger

Subscribed and sworn to before me this 11th day of May, 1901.

(Signed) H. D. Green
Notary Public.

Lucy M. Bowman being duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she made the above and foregoing copy and that same is a full true and correct copy of the original transcript.

(Signed) Lucy M. Bowman.

Subscribed and sworn to before me this 10th day of March, 1906.

(Signed) Chas. H. Webster
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy, and that same is, in part, a correct copy of this a copy of the original transcript.

Geo. H. Lessley
Subscribed and sworn to before me this 17th day of April, 1906.

B. P. Raemue
Notary Public.

To be filed in Cherokee F D 329, 330, and 739.

Char.F.D.-348.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., September 23, 1903.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of JULY MARTIN, ET AL., as Cherokee freedmen.

Appearances:

W. W. Hastings and L. R. Bell, Attorneys for Cherokee Nation.

Witnesses placed under the rule.

JULY MARTIN, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: State your name? A July Martin.
Q How old are you? A I guess I must be about forty-two, I reckon, or forty-three. I don't know for certain.
Q Were you born before the commencement of the war?
Q Yes sir, that is what they said I was.
Q What is your post office? A Chelsea.
Q Who was your father? A Aaron Martin.
Q Give me the name of your mother? A Queen Martin.
Q Were you the slave of a Cherokee citizen at the commencement of the war? A Yes sir.
Q Who did you belong to? A Belonged to John Martin.
Q He was a Cherokee citizen, was he? A Yes sir.
Q Were you taken out of the Cherokee nation during the rebellion?
A Yes sir.
Q Where did you go? A Went to Kansas.
Q When did you come back? A They said it was in '66, and of course I don't know anything about when it was, I was too small to know anything about it when we came back. Father brought me back with him when he came.
Q You don't remember anything about it yourself? A No sir.
Q Where were you living when you first remember? A Was living on what they call the Cap. Hicks place.
Q In what Nation? A Cherokee Nation.
Q Have you lived in the Cherokee Nation ever since you can remember?
A Yes sir.
Q You applied for your wife and your children, Queen, Carrie, Annie, Wesley and Betsy? A Yes sir.
Q Are they all still living? A Yes sir, they are all still living.
Q But your wife is dead? A Yes sir, she is dead.

AL. LYNCH, being first duly sworn, testified as follows on behalf of applicants:

BY COMMISSION: What is your name? A Al Lynch.
Q How old are you? A Sixty-three years old.
Q What is your post office? A Vinita.
Q Do you know July Martin? A Yes sir.
Q Who was his father? A Aaron Martin.
Q Give me the name of his mother? A Queen Martin.
Q Did you know Aaron Martin before the war? A Yes sir.
Q Did you know Queen Martin before the war? A Yes sir.
Q Were they both slaves of Cherokee citizens? A Yes sir.
Q Was July Martin born in slavery? A Yes sir.

Q Who did he belong to? A He belonged to - his mother belonged to Eliza Wright, and she went from Eliza Wright to John Martin, I don't know whether he owned them, or how it was, but he belonged to that outfit, that family.

Q Who did Aaron Martin belong to before the war? A John Martin.

Q Did Queen Martin belong to the same man or somebody else?

A Eliza Wright raised her. She was born and raised on Eliza Wright's place, and after Aaron Martin married her, John Martin got her. They lived there together.

Q Was Eliza Wright a Cherokee citizen? A Yes sir, John Martin's sister.

Q Did Aaron Martin and Queen Martin begin living together before the war? A Yes sir.

Q Was John Martin a Cherokee citizen? A Yes sir.

Q Do you know when July Martin came back after the war? A He came back with Aaron Martin in the summer or fall of '66, down there on Grand River.

Q Who else came with him besides Aaron Martin's father? Who else came with July Martin besides his father? A Andy Frye here, and old man Squire Martin, Squire Adair, old Peter Williams, Tebe Schrimsher, and Jake Martin's family. Jake didn't come himself, but his family came.

Q Did Queen Martin come at the same time? A Yes sir.

Q Where did you first see July Martin after the war? A The first time I saw him was down here on Grand River on the Jake Thompson place.

Q What Nation? A Cherokee Nation.

Q What district was that in? A Delaware District.

Q You think that was in '66? A I know it was.

Q What time of the year? A It was along the latter part of August or the first of October, something along there, I don't just remember exactly.

Q How long did July Martin and his parents live there at that time?

A They stayed there all that winter and the next spring. I don't know whether they stayed all winter, part of the winter anyway, and the next spring they moved over on the edge of Lynch's Prairie, on a place they used to call the Tucker place. I don't know how long they stayed there, but when he moved from there he moved over on Pryor Creek. He stayed there two or three years, I don't remember.

Q Were you living around in that part of the country at that time?

A Yes sir.

Q Who else was living there when July Martin and Aaron Martin came down? A There was --

Q What other colored people? A There was me and Cray and Arch, Simon, Art Williams, Rose, and Nelson Moore down here, I believe that's all.

Q You say Cray, you mean Anderson Lynch? A Yes sir, and Rose Whitmire.

Q All those people were living around there when July Martin came back? A Around in that neighborhood.

Q How long has July Martin lived in the Cherokee Nation since that time? A He has been here all the time as I know of. If he has been out I never knowed it.

MR. HASTINGS: How old was he when he came back? A Well sir, I can't tell you just how old he was. He was small.

Q Was he born before the war or during the war? A He was born before the war. If I don't make a mistake now, I think he was born on old man Knight's place, with Bob Knight's father, she was hiding up there, either born there or born at John Martin's, I am not quite sure.

Q They came back in a wagon? A Yes sir, they came back in a wagon.
Q Do you remember whether it was July or August they came back?
A It was in October or July, I couldn't tell you exactly the month.
Q There is August and September now, in between those two months?
A Somewhere along that time, it hadn't got cold weather yet.
Q Are they related to you in any way? A No sir, no relation of mine.
Q How far did they settle from you? A I was living on that place there that George Clark had, it is about three miles and a half or four miles from where they went to settle. They moved into Dr. Thompson's house, and after they moved over there I left that old place, left the woman on the George Clark place, and went over there and stayed with them right in the house with them.
Q Where did July marry? A I don't know sir, about that.
Q Did he marry in that neighborhood down there? A No sir, out west somewhere, I don't know nothing about his marriage. I don't whether he has got a wife.

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Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Wm. Hutchinson.

Subscribed and sworn to before me this 26th day of October, 1908.

(Signed) Charles H. Sawyer.
Notary Public.

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he made the above and foregoing copy from the original thereof, and that the same is, in part, a true and correct copy of the same.

Geo. H. Lessley

Subscribed and sworn to before me this 17th day of April, 1908.

B. P. Rasmus
Notary Public.

5091

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William Tucker, et al., as Cherokee Freedmen, consolidating the applications for the enrollment of:

William Tucker.....	Cherokee Freedman D329
Katie Adams, et al	Cherokee Freedmen D330
Sarah Foster.....	Cherokee Freedman D739
Malinda Beeson.....	Cherokee Freedman D969

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by William Tucker for, among others, himself, the others included in said application have heretofore been disposed of, and their rights to enrollment will not be considered in this decision; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; by Sarah Foster for, among others, herself, the others included in said application have been heretofore disposed of and their rights to enrollment will not be considered in this decision, and by Malinda Beeson for herself. The records further show that on June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered its decision herein, granting all of said applicants the right to enrollment as Cherokee freedmen, and that said decision was duly forwarded the Department for review and decision. Thereafter on December 16, 1905 (I.T.D.10922-05), the Department, in view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, remanded said case, insofar as it granted the applications for the enrollment of said persons as Cherokee freedmen, to this office for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce witnesses to impeach witnesses who had testified in behalf of the applicants. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, January 25, February 8, April 4 and April 12, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant herein, William Tucker, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress

of said rebellion he left the Cherokee Nation, but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Messrs Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to said Nation, and has since continuously resided therein. The evidence further shows that all the other applicants herein are descendants, children and grandchildren of the said William Tucker, born since 1866, and continuously resided in the Cherokee Nation from the date of their births up to and including September 1, 1902.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), the decision of the Commission to the Five Civilized Tribes rendered on June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen should be, and the same is, hereby, affirmed.

SIGNED: Tame Bixby.
Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 23 1907

6

710969

MISSION TO THE F. B. I. DIVISION

FILED
MAR 24 1902

[Handwritten signature]

RECEIVED
MAR 24 1902

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Melinda Beeson,
Welch, I. T.

Cherokee F-D-969
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

(COPY)

Tahlequah, Indian Territory, March 21, 1905.

Commission to the Five Civilized Tribes,

(Cherokee Enrollment Division),

Muskogee, Indian Territory.

Gentlemen:

I herewith return consolidated cases of

William Tucker, et al,	Cherokee	F. D-329,
Katie Adams, et al,	"	F. D-330,
Lucinda Whitmire,	"	F. D-352,
Sarah Foster,	"	F. D-739,
Malinda Beeson,	"	F. D-969.

The decision, as prepared, admits 12 of the applicants, denies 3 and one is dismissed because of death.

Upon examination I am of the opinion that all of them should be denied enrollment. As to the 12 who are granted, it will be observed that not one of them is upon either of the regular rolls of 1880 and 1896. The right of the 12, as indeed all of these applicants, is derived through the father, William Tucker. He is supported by two very questionable witnesses. One of them, L. D. Daniels, whose testimony I do not consider is entitled to much, if any, weight and who appeared to be simply a professional witness, clearly indicates that he identified Tucker solely upon ^(Tucker's) his own information. He says that he knew that Tucker was the man that he met in 1866 at Ft. Gibson because "he (Tucker) told me that he was the same man I met". As to the other witness, Lester

Commission--2.

Foreman, he is notoriously unreliable and the most casual perusal of the testimony must, in my opinion, reveal all the evidences of vagueness and unreliability. It will be observed that some of Tucker's children married people who were on the 1880 roll and who were undisputed as to their citizenship. In no instance, however, has any one of them been admitted with the other members of the family upon either that or the 1896 roll. These facts, to my mind, constitute clear and satisfactory evidence that none of these parties are entitled to enrollment.

I suggest that the cases be rewritten and that all of them be rejected upon the lines here stated. If the other Commissioners do not agree with me in this view, then I beg to vote in the negative and have the case referred to the Department for its decision.

I am not entirely clear, but I presume that a negative vote of this character should be considered in the nature of a protest or an appeal. I trust, however, that a careful examination of the testimony will lead to the same conclusion with the other Commissioners that I have formed. I see that none of the Commissioners have so far concurred in the decision as at present written.

Respectfully,

(Signed) C. R. Breckinridge.
Commissioner.

WH
Enc. H-25

(COPY)

I have signed original decision--
witnesses for applicant have not been
impeached--and no effort on part of nation
either to impeach or rebut their tes-
timony---I believe Daniels told the truth-
no Freedman in the territory had better
means of knowing these people than he-
-It is true that he was a witness for many
of them-he is an intelligent man-and in the
work of enrollment of Freedmen often swore
adverse to applicant-he was the dispenser
of government rations to these people-and
had an opportunity of knowing them-in all
testimony given by him-he appeared to have
a very clear recollection as to past events-

T. B. H-----

COPY.

Cherokee Freedmen

D-969.

Muskogee, Indian Territory, June 20, 1905.

Malinda Beeson,

Welch, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the record of proceedings had in the matter of the application for your enrollment as a Cherokee freedman, together with a copy of the decision of the Commission to the Five Civilized Tribes, dated June 23, 1905, granting, among others, your said application, Commissioner C. R. Breckinridge dissenting.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-69
Register

(SIGNED).

W. H. H. H.
Chairman.

COPY.

Cherokee Freedmen

D-329, et al.

Muskogee, Indian Territory, June 28, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated June 28, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitacre, as Cherokee freedmen, Commissioner C. R. Breckinridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED)

Samuel D. May

Incl. S-72

Chairman.

COPY.

Cherokee Freedmen
D-329, et al.

Waskogee, Indian Territory, June 20, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al., as Cherokee freedmen, including the Commission's decision dated June 25, 1905, granting the applications for the enrollment of William Tucker, et al., rejecting the application for the enrollment of William Banks, et al., and dismissing the application for the enrollment of Lucinda Whitmire, as Cherokee freedmen, Commissioner C. R. Brookinsridge dissenting in so far as said decision grants the applications for the enrollment of the said William Tucker, et al., as Cherokee freedmen.

Respectfully,

Incl. 8-73

(SIGNED).

James D. Dixby.
Chairman.

Through the

Commissioner of Indian Affairs.

J. F. Jr.
Y.P.
FHE

DEPARTMENT OF THE INTERIOR

D. C. 56716-1905
I.T.D.-10922-1905

WASHINGTON

December 16, 1905

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 28, 1905, the Commission to the Five Civilized Tribes transmitted the record in the matter of the consolidated applications for enrollment as Cherokee freedmen, of William Tucker, for himself and his three minor grandchildren, William, Irene, and Virdie Banks; of Katie Adams for herself and her eight minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordelia Adams; of Zeke Whitmire for his wife Lucinda Whitmire; and of Jerry Foster for his wife, Sarah Foster, including its decision of the same date, which was adverse to William, Irene and Virdie Banks, and Lucinda Whitmire, and favorable, Commissioner Breckinridge dissenting, to all the other applicants.

Reporting August 26, 1905, the Indian Office recommends that the decision of the Commission be approved. A copy of its letter is inclosed.

It appears from the record that all of the applicants except William Tucker, and Mary Banks, deceased, mother of William,

Irene and Virdie Banks, were born since the beginning of the Civil war, and claim their rights to enrollment as Cherokee freedmen through William Tucker, the principal applicant. It is alleged that William Tucker was the slave of George Whitmire, a Cherokee citizen; that during the war he removed to Kansas, but returned to the Cherokee Nation on or before February 11, 1867, and has resided continuously in the Cherokee Nation up to and including September 1, 1902.

The Department believes that the Commission's decision in so far as it is adverse to the applicants, William, Irene and Virdie Banks, and to Lucinda Whitmire, is correct, and as to these applicants it is hereby affirmed.

It is shown by the record that William Tucker testified in his own behalf. He is supported by the testimony of J. D. Daniels and Lester Foreman. Commissioner Breckinridge questions the reliability of the testimony submitted by these witnesses.

In view of the opinion expressed by Mr. Breckinridge on this testimony, the Department considers it advisable to remand the case in order that the nation may have an opportunity to impeach these witnesses. The record is therefore returned herewith for a rehearing and a readjudication, except as to the applicants William, Irene and Virdie Banks and Lucinda Whitmire.

You are requested to advise the principal applicants, informing them of the reason for this rehearing, and also to notify the nation.

Respectfully,

(Signed) THOS RYAN

First Assistant Secretary

2 inclosures .

Cherokee F.
D-969

Muskogee, Indian Territory, January 23, 1907.

Malinda Beeson,

Welch, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting, among others, your application for enrollment as a Cherokee freedman. Your attorney, Louis T. Brown, Muskogee, Indian Territory, has heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-50
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

Louis T. Brown,
Attorney for William Tucker, et al.,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-51
JMH

Commissioner.

Cherokee F.
D-329 et al.

Muskogee, Indian Territory, January 23, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commission to the Five Civilized Tribes, rendered June 28, 1905, granting the applications for the enrollment of William Tucker, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl.H-52
JMH

Commissioner.

Muskogee, Indian Territory, January 23, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of William Tucker, et al. (D 329 et al), as Cherokee Freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission, rendered June 26, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen.

On December 16, 1905 (I.T.D. 10922-1905), the Department remanded this case to this office for rehearing and readjudication.

There is also enclosed a schedule containing the names of the Freedmen embraced in this decision, and

Secretary-2

in the event of the approval of the Commissioner's decision enrolling the applicants in this case, it is respectfully recommended that the schedule, which is Numbers 4207 to 4212, inclusive, be approved by the Department. This action is recommended in view of the provision of the Act of April 26, 1906 (34 Stat., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The names of the persons embraced in this case here follow in the same numerical order as on the schedule:

No.	Name.
4207	Tucker, William
4208	Adams, Katie
4209	Adams, Albert
4210	Adams, George Edward
4211	Adams, Elias
4212	Adams, Walter

Secretary-3-

No.	Name.
4213	Adams, Cora
4214	Adams, Elmer
4215	Adams, Ella
4216	Adams, Cordelia
4217	Poster, Sarah
4218	Boesen, Malinda

Respectfully,

**Through the
Commissioner of Indian Affairs.**

Commissioner

Encl. B-84

COPY

LAND
9084-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith report of Commissioner Bixby, dated January 23, 1907, forwarding the record of proceedings had in the matter of the application for the enrollment of William Tucker, et al., as Cherokee freedmen, together with the decision of the Commissioner, dated January 23, 1907, affirming the decision of the Commission rendered June 23, 1905, granting the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams, Sarah Foster and Malinda Reeson, as Cherokee freedmen.

The Department, on December 16, 1905 (I.T.D. 10922-1905), remanded this case to the office of the Commissioner for rehearing and readjudication.

There is also enclosed a schedule containing the names of the freedmen embraced in the enclosed decision, and in the event of the approval of the decision enrolling the applicants herein, Commissioner Bixby recommends that the schedule, numbers 4207 to 4218, inclusive, be approved by the Department. This action is

recommended in view of the provisions of the Act of April 26, 1906 (34 Stat. L., 137), providing that the Secretary of the Interior shall have no authority to approve the enrollment of any citizen of the Cherokee Nation subsequent to March 4, 1907.

The record shows that applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by William Tucker; by Katie Adams for herself and minor children, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella and Cordelia Adams; and by Sarah Foster and Valinda Beeson. On June 28, 1905, the Commission to the Five Civilized Tribes, one member dissenting, rendered a decision granting all the applicants the right to enrollment as Cherokee freedmen. The decision of the Commission was forwarded to the Department with Office letter of August 16, 1905.

In view of the opinion expressed on the testimony by Mr. Breckinridge, the dissenting member of the Commission, the Department, on December 16, 1905 (I. T. D. 10922-1905), remanded the case to the office of the Commissioner to the Five Civilized Tribes for the purpose of giving the attorneys for the Cherokee Nation an opportunity to introduce testimony to impeach witnesses who had testified in behalf of the applicants.

Pursuant to Departmental directions, further proceedings were had relative to the application of William Tucker, et al., as Cherokee freedmen, at Muskogee, Indian Territory, January 25 and

February 8, at Vinita, Indian Territory, April 4, and at Muskogee, April 12, 1906.

The evidence shows that the applicant herein, William Tucker, was a slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of the war he left the Cherokee Nation, but returned thereto prior to February 11, 1867, and has since continuously resided therein.

The evidence further shows that all of the other applicants herein are descendants, children and grandchildren, of William Tucker, were born since 1860, and continuously resided in the Cherokee Nation from the date of their birth up to and including September 1, 1902.

In view of the facts as herein set out, and in accordance with the provisions of Section 21 of the Act of Congress approved June 23, 1893 (30 Stat. ., 495), the Office concurs in the decision of Commissioner Bixby that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting the applications for the enrollment of William Tucker, Katie Adams, Albert Adams, George Edward Adams, Elias Adams, Walter Adams, Cora Adams, Elmer Adams, Ella Adams, Cordelia Adams, Sarah Foster and Malinda Beeson, as Cherokee freedmen, be affirmed.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EBM-EH

J.F.Jr.

D.C.9090-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON. LLB.

I.T.D.2388-1907.

L.R.S.

February 9, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

January 23, 1907, you transmitted the record in the matter of the applications for the enrollment of William Tucker, Katie, Albert, George Edward, Elias, Walter, Cora, Elmer, Ella, and Cordilia Adams, Sarah Foster and Malinda Beeson as Cherokee freedmen, including your decision of the same date, affirming the decision of the Commission to the Five Civilized Tribes dated June 28, 1905, granting the applications for the enrollment of said applicants.

In connection with this case you transmitted a schedule containing the names of the freedmen embraced in this decision, and in the event of the approval of your decision you recommend that said schedule be approved by the Department.

Reporting February 4, 1907 (Land 9084), the Indian Office concurs in your decision that the decision of the Commission to the Five Civilized Tribes of June 28, 1905, granting said applications, be affirmed. A copy of its letter is inclosed.

The Department considers your decision correct and it is hereby affirmed.

The schedule transmitting the names of the freedmen embraced in this decision has been approved this day, and two copies are inclosed for appropriate disposition.

The original of said schedule, together with the other papers in the case, has been sent to the Indian Office for its files.

Respectfully,

Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

3 inc. and 3 to Ind. Of.

Cherokee F
1581.

Muskogee, Indian Territory, April 18, 1907.

Malinda Beeson,
Welch, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior, February 9, 1907, and your name placed upon a schedule of Cherokee freedmen and approved by the Department on said date.

Respectfully,

Commissioner.

LMC

Cherokee F
1549 et. al.

Muskogee, Indian Territory, April 15, 1907.

Louis T. Brown,

Attorney for William Tucker, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-2
LMC

Cherokee F
1549, et al.

Muskogee, Indian Territory, April 15, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of William Tucker, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Encl.C-3
LMC





Department of the Interior.

Commission to the Five Civilized Tribes.

MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, \$300.



588

5829

Mrs. Melinda Beeson,

Welh, Indian Territory.

Unclaimed

EMPTY

Cher Fr 1553

Trans. from Memo. 348

Cher Fr 1553

1. The first of these is the fact that the
 2. Government has been unable to secure
 3. the necessary funds to carry out its
 4. policy of non-interference in the
 5. internal affairs of the country.
 6. The second is the fact that the
 7. Government has been unable to secure
 8. the necessary funds to carry out its
 9. policy of non-interference in the
 10. internal affairs of the country.

1921-1922.

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1940-1941

[illegible]

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE CIVILIZED TRIBES
ELLEN
SEP 12 1901

MEMORANDUM

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort, Gibson, I. T. September, 11, 1901.

In the matter of the application of Emily Weaver for the enrollment of herself and child as citizens of the Cherokee Nation by blood; She being duly sworn and examined by the Commission, testified as follows:

- Q What is your name? A. Emily Weaver.
- Q You are about 60 years old are you? A. Yes sir about.
- Q What is your post office address? A. Westville.
- Q That is in the Indian Territory is it? A. Yes sir.
- Q In what district do you reside? A. Goingsnake.
- Q You claim to be a Cherokee by blood do you? A. Yes sir
- Q How long have you lived in the Cherokee Nation? A. Born and raised here.
- Q Have you always made your home here? A. Yes sir
- Q Never lived in anyother place? A No sir.
- Q Did you ever apply for enrollment in other tribe or nation? A No sir.
- Q Do you apply now for anyone besides yourself? A. I have got two children at home.
- Q How old are they? A. The youngest one is going on 13 or 14, and there is one is going on about-- she was born the first year peace was made.
- Q She is over 21 then? A. Yes sir.
- Q Well she must apply for herself? A Well.
- Q Give us the name of the youngest child? A. Lottie Robbins.
- Q And you say she is about 13 years old? A. Yes sir.
- Q Is this child alive and living with you at this time? A. Yes sir.
- Q What is the name of your father? A. Lewis Crittenden.
- Q Was he a Cherokee by blood? A. Yes sir.
- Q What is the name of your mother? A. Nellie Cole.
- Q Was she a Cherokee by blood? A. Not a Cherokee.
- Q Was she a Cherokee freedman? A. Yes sir.
- Q Have you ever been recognised as a citizen of the Cherokee Nation? A Yes sir I have .
- Q When? A. Time ~~was~~ of the Cherokee Council, I had my papers, they is lost now though.
- Q Was you admitted at that time? A. Yes sir, they claim me as one.
- Q Did they give you a certificate of admission? A. Yes sir I had it but it got lost
- Q Have you ever drawn any money from the Cherokee Nation? A. No sir.
- Q What is the name of your present husband? A. Joe Weaver.
- Q Is he living? A. Yes sir.
- Q Cherokee or a white man? A. Cherokee.
- Q Is he a recognised citizen of the Cherokee Nation? A. I reckon he is; he is not living with me now.
- Q When were you married to him? A. Never was married to him, just lived with him five years.
- Q Did you ever live with any other man besides Weaver? A. Yes sir with George Robbins, lived with him until he died.
- Q Were you married to him? A. No sir.
- Q Ever been married to any man? A. No sir.
- Q Did you ever live with any other man besides Weaver and Robbins? A No sir.
- Q Just with these two men? A. Yes sir.
- Q Was Robbins a white man? A. No sir a Cherokee.
- Q Is he the father of Lottie? A. Yes sir.
- Q Did you ever draw any money from the Cherokee Nation? A. No sir.
- Q Did you ever go by any other name besides Weaver, Robbins or Crittenden, your maiden name? A. No sir, they just called me Emily Crittenden when I was a girl and then when I lived with Weaver they called me

Billy Weaver.

Q Were you an applicant before this Commission, five years ago, in 1896 for enrollment as a citizen of the Cherokee Nation? A. Yes sir but I didn't get it - they told me a little after that I was a citizen here.

Q Who told you? A. Ned Foreman and that was the Council then.

Q Under what name did you apply, as Billy Weaver or Robbins? A. Billy Weaver is the way I applied for it.

Q Did you receive any notice from the Commission that they had admitted or denied you? A. No sir, I can't read or write and so I let them men have the papers and they told me I was a citizen; we paid them about \$50.00 for our right and never got it.

Q Did you ever apply for anyone besides yourself? A. Yes sir for my children too.

Q You didn't apply under your maiden name of Grittenden? A. No sir just applied for the name of Billy Weaver.

(By W.W.Hastings, Cherokee Representative)

Q You never did have you certificate of admission in your hands, they always promised to get it for you and you never did receive it? A. No sir I never did get it. I had my affidavits and witnesses, they said they would get it, and they always promised to do something for me and never did.

Q Never did get you a certificate of admission? A. No sir.

All the rolls of the Cherokee Nation in the possession of this Commission examined and the name of the applicants not found thereon.

By the Commission: Billy Weaver applies for the enrollment of herself and her child Lillie Robbins as citizens by blood of the Cherokee Nation; she avers that she has lived in the Cherokee Nation all her life; she also avers that she has never been married, but that she lived for a time with one George Robbins and with one Joe Weaver; her name cannot be found on any of the rolls of the Cherokee Nation in the possession of the Commission. It would therefore appear that her application comes within the provisions of the act of Congress approved May 30, 1900, which act provides that this Commission shall be without authority to receive, consider or make any record of any application of any person for enrollment as a member of any tribe in Indian Territory, who has not been a recognized citizen thereof, duly and lawfully enrolled or admitted as such. Consequently the application of Billy Weaver which she makes on behalf of herself as a citizen of the Cherokee Nation by blood is rejected. As to her child, Lillie Robbins, it appears that her rights are derived only through her mother, the applicant, therefore her application which she makes for her child Lillie Robbins is also rejected. This judgment as well as the evidence herein, will be forwarded to the Secretary of the Interior for his review and the applicant will be notified by mail at her post office address at a later date of the final action of the Secretary.

§ § § § § § § §

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all the proceedings in the above cause and that the foregoing is a full and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 11th of September, 1901


Chas von Weise

W.D. Green M.P. Commissioner.

1

Memorandum 348

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
SUB. V.
FILED
SEP 11 1901


Acting Chairman

CHEROKEES BY BLOOD AND ADOPTION.

Date *Sept 11th* 190*2*

Name *Wastville, I. T.*

District _____ Year _____ Page _____ No. _____

Citizen by blood _____ Mother's citizenship _____

Intermarried citizen _____

Married under what law _____ Date of marriage _____

License *60* Certificate _____

1. Wife's name *Emily Weaver on 30 1 ch*

District _____ Year _____ Page _____ No. _____

Citizen by blood *yes* Mother's citizenship _____

Intermarried citizen _____

Married under what law _____ Date of marriage _____

License _____ Certificate _____

Names of Children:

Lotie Rollins Dist. *on 6 1 ch* Year _____ Page _____ No. _____ Age *13*

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Dist. _____ Year _____ Page _____ No. _____ Age _____

Application by # *1*

Stenographer, Charles von Kaise

Not identified on any of the tribal rolls in the possession of the Commission.

Oct 8 1901
RECEIVED
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

Commissioner Needles: In the matter of Memorandum Case of Emily Weaver, Number 548, in which she applied for the enrollment of herself and her minor child, Lottie Robbins, as Cherokee citizens, the record is supplemented as follows:

I have this day had the Dawes record of 1896 carefully searched to see if application was ever made by her for herself or for Emily Weaver or her child, Lottie Robbins, and there is no evidence that either of them ever appeared before the Dawes Commission for admission to Cherokee citizenship. This seems to complete the evidence necessary to show that they come fully under the provisions of the Act of May 31, 1900, denying to the Commission jurisdiction in the matter of applications for persons that have never been recognized as citizens of a tribe, and duly admitted or enrolled as such, and a copy of this statement will be filed with the testimony in the case.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he took in full the preceding statement and order, and that the foregoing is a full and correct transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 7th day of October, 1901.


Commissioner.

2. The Board may choose to hold the position of a member for a term of 1 year.

15
22
The following is an abstract of the proceedings of the
Board of Directors of the American Association of
University Professors, held at the University of
Chicago, Chicago, Illinois, on the 14th day of
January, 1915.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
WASHINGTON, D. C.
FILED
DEC 23 1904

D 2901

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., June 30, 1902.

In the matter of the application of JAMES BULLITT, et al.
for enrollment as citizens of the Cherokee Nation:

EMMET STARR, being duly sworn and examined by the Commission,
testified as follows:

- Q What is your name? A Emmet Starr.
Q What is your age? A Thirty one years.
Q What is your post office address? A Claremore, I. T.
Q Are you a citizen by blood of the Cherokee Nation?
A Yes sir, I am.
Q For whom do you desire to make application for enrollment?
A For the following named persons on the 1896 Cherokee roll,
their families and descendants:

Lotta Alberty #1764 Going Snake District.

- Q Are there any other persons for whom you desire to make appli-
cation for enrollment?
A I desire to apply for the following named persons on the 1896
Cherokee roll, their families and their descendants:

E. C. Bagwell, on oath states that as stenographer to the
Commission to the Five Civilized Tribes, he correctly recorded the
testimony and proceedings had in the above entitled cause, and that
the foregoing is an accurate transcript of his stenographic notes
thereof.

Subscribed and sworn to before me this December 9, 1902.

E. C. Bagwell
B. C. Jones
Notary Public.

R
Cher

D 2894

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., June 30, 1902.

In the matter of the application of JAMES EMMETT, ET AL.,
for enrollment as citizens of the Cherokee Nation:

EMMET STARR, being duly sworn and examined by the Commission,
testified as follows:

- Q What is your name? A Emmet Starr.
Q What is your age? A Thirty one years.
Q What is your post office address? A Claremore, I. T.
Q Are you a citizen by blood of the Cherokee Nation?
A Yes sir, I am.
Q For whom do you desire to make application for enrollment?
A For the following named persons on the 1880 Cherokee roll,
their families and descendants:

Emily Crittenden #489 Going Snake District.

- Q Are there any other persons for whom you desire to make appli-
cation for enrollment?
A I desire to apply for the following named persons on the 1880
Cherokee roll, their families and their descendants:

E. C. Bagwell, on oath states that as stenographer to the
Commission to the Five Civilized Tribes, he correctly recorded the
testimony and proceedings had in the above entitled cause, and that
the foregoing is an accurate transcript of his stenographic notes
thereof.

Subscribed and sworn to before me this December 9, 1902.

E. C. Bagwell
Simon R. Halloway
Notary Public.

R.
Cher. D-2901.

Department of the Interior.
Commission to the Five Civilized Tribes.
Tahlequah, I. T., August 14, 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the enrollment of LOTTIE ALBERTY as a citizen by blood of the Cherokee Nation.

Appearances:

W. W. Hastings, attorney for Cherokee Nation.

RICHARD M. WOLFE, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: What is your name? A Richard M. Wolfe.
Q How old are you? A Fifty-two.
Q What is your post office address? A Tahlequah.
Q You are a recognized citizen by blood of the Cherokee Nation?
A Yes sir.
Q Do you know Lotta Robins? A Yes sir.
Q She is a woman now about twenty-six years of age?
A She is somewhere in that neighborhood. I don't know her age exactly.
Q Do you know her present post office address? A Westville, I T. I think it would be.
Q In what district does she live? A Goingsnake District.
Q Is she a Cherokee by blood? A She is not recognized. She is a daughter of Emily Crittenden or Emily Weaver, it has been disputed. She is a freedman.
Q Is her mother a freedman? A Yes sir.
Q Is her mother living? A Yes sir, she was the last time I heard.
Q Do you know the name of the father of Lotta Robins?
A I can't give his name. He was a brother of Henry Robins.
Q Was he a Cherokee by blood? A Yes sir he was recognized as a Cherokee.
Q Is he living? A He is dead.
Q Did he reside in Goingsnake District? A Yes sir.
Q How long have you known Lotta Robins? A I have known her since her childhood.
Q Has she resided in the Cherokee Nation continuously during that time? A Yes sir, I think she was born in the Cherokee Nation.
Q Do you know whether or not she drew Cherokee Strip money in 1894?
A I don't.
Q Is her mother, Emily Weaver, enrolled as a freedman citizen of the Cherokee Nation? A She has been trying to get on the roll. I don't know whether she has been accepted or not.
Q She has been trying to get on the roll as a freedman? A Yes sir.
MR. HASTINGS: Did the father of this applicant and the mother live together as husband and wife? In other words, was this a legitimate child of theirs? A I don't think they were living together as husband and wife, never married.
Q They did not recognize each other as husband and wife?
A They did not.
Q Is this applicant married? A I think she is single.

JACK NEWTON, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: What is your name? A Jack Newton.
Q How old are you? A Forty-seven.

Q What is your post office address? A Tahlequah.
Q You are a recognized citizen by blood of the Cherokee Nation?
A Yes sir.
Q Do you know Letta Robins, a young woman now about twenty-six years of age? A I know Letta, but she goes by the name of Alberty. It is Charlotte Robins, and Letta, the youngest one, goes by the name of Alberty. There are two sisters of them.
Q Is this Letta Robins, or Letta Alberty, the daughter of Emily Weaver? A Yes sir.
Q What is the name of the father of Letta Alberty? A I don't know.

Mr/Hastings: She is not a legitimate child? A No sir.

BY COMMISSION: Does she go by the name of Letta Alberty?
A That is what they call her, Alberty.
Q Has she an elder sister, this Letta? A Charlotte is elder than she is. Letta is the youngest.
Q Do you know the name of the father of Charlotte?
A No, only just by hearsay. It is said to be Joshua Robins, old Levi Robins's son.
Q About how old is Charlotte, the older sister of Letta?
A She must be about twenty-five. Somewhere along there. She may be twenty-eight or thirty.
Q Is Letta Alberty married? A No sir.

MR. HASTINGS: Was her mother recognized as a citizen of the Cherokee nation? A No sir.
Q She was not married? A Not that I know of.
Q This girl, the applicant, has no known father, no legitimate father? A No sir.
Q She had no other sister, this girl had no other sister?
A She had two sisters.
Q They were all illegitimate? A Yes sir, Weaver is the father of this other one. I don't know whether they were ever married or not.

1896 census roll of citizens of the Cherokee Nation examined, and applicant identified thereon as follows:

Page 783, #1764, Letta Robins, Goingsnake District, age 20.

Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of the stenographic notes thereof.

Wm. Hutchinson

Subscribed and sworn to before me this 30th day of August, 1902.

John H. Roosen
Notary Public.

M 348

COMMISSION

4 1903

AAD.

Department of the Interior.
Commission to the Five Civilized Tribes.
Vinita, Indian Territory, January 23rd, 1903.

In the matter of the application of Emily Weaver for the enrollment of herself and his daughter, Lottie Robbins, as citizens by blood of the Cherokee Nation.

Supplemental to Mem. #348.

Applicant appears in person.
Cherokee Nation by W. W. Hastings.

The Applicant, being duly sworn, testified as follows:-

Examination by the Commission.

- Q. State your name? A. My name is Emily Crittenden.
Q. How old are you? A. Why, I can't tell that, how old I is. I am about 60.
Q. Where do you live; what is your post office? A. I live in Goingsnake district, on Tyner creek.
Q. Where do you get your mail? A. Westville.
Q. You say your name is Emily Crittenden? A. Yes, sir.
Q. What was your father's name? A. My father's name was Lewis Crittenden.
Q. Is he on the 1880 roll? A. Yes, sir; they said they found his name on the roll.
Q. As Crittenden? A. Lewis Crittenden.
Q. Were you ever known by any other name? A. Yes, sir; some of them put my name Emily Weaver.
Q. What was your husband's name? A. Joe Weaver.
Q. Were you married to him? A. No, sir.
Q. Was Joe Weaver a Cherokee? A. Yes, sir.
Q. When did you live together? A. It has been about 13 years. It has been longer than that; he left me before peace was made.
Q. What year did you live together, do you remember?
A. I don't know.
Q. Have you any children? A. Yes, sir.
Q. Two children born while you were living with Joe Weaver?
A. Yes, sir; and them two Robbins children. I lived with him until he died.
Q. You lived with a man by the name of Josh Robbins?
A. Yes, sir.
Q. Where were you living with him? A. Living in the Nation; Goingsnake district.
Q. How long did you live with him? A. 3 or 4 years. I have got two children by him; Charles and Lottie.
Q. Is Josh Robbins alive? A. No, sir; he is dead.
Q. When did he die? A. About 2 years, I guess.
Q. It has been two years since he died? A. Yes, sir.
Q. Did you live with him before you lived with Weaver?
A. No, sir; afterwards, after Weaver.
Q. Lived with Weaver first? A. Yes, sir.
Q. Then you separated? A. Yes, sir; he left me.
Q. Then you took up with Josh Robbins? A. Yes, sir.
Q. Were you married? A. No, sir.
Q. These two children, Lottie and Charles, are by him?
A. Yes, sir.

Q. Was Robbins a Cherokee? A. Yes, sir.

Q. Was he on the eighty roll? A. Yes, sir; his name is on the eighty roll.

Q. You don't appear on any roll, do you? A. Yes, sir; I was put on the roll but I can't tell you where. I can't read or write.

Q. How long have you gone by the name of Crittenden? A. Since I was born.

Q. Did you go with the name of Weaver at one time? A. I did when I lived with him, but I always went by the name of Emily Crittenden.

Q. When you first applied for enrollment didn't you give the name of Weaver? A. Yes, sir; they told me that was right.

Q. But your name is Emily Crittenden? A. Yes, sir.

Q. That is your father's name? A. Yes, sir.

Q. Did you go by the name of Crittenden when you were living with Weaver? A. Yes, sir?

Q. Did you go by the name of Robbins when you were living with Robbins? A. No, sir.

Q. Are you known as Emily Crittenden in the neighborhood, or Emily Weaver? A. Yes, they all know me.

Q. Do they call you Emily Crittenden or Emily Weaver? A. Emily Crittenden; some call me Emily Weaver.

Q. Now, you say your father, Crittenden, was a Cherokee? A. Yes, sir.

Q. Full blood? A. No, he was a full blood. Aunt Lidia Crittenden was-----

Q. He was half Cherokee and half what? A. White.

Q. What was your mother? A. My mother was a Cherokee.

Q. Full blood Cherokee? A. She wasn't full blood; pretty nearly all Cherokee.

Q. What was the other part? A. She was about the color of that girl there.

Q. Have any negro blood? A. Yes, sir; she had a little of that.

Q. She did? A. Yes, sir; I will tell the truth.

Q. What was her name? A. Her name was Nellie Cole.

Q. Had she been a slave? A. She had been.

Q. A slave to who? A. Phillips, I believe.

Q. What was his first name? A. Phillips is all I know.

Q. Was he a Cherokee? A. No, he was a white man.

Q. Where did he live? A. He lived here in the Cherokee Nation.

Q. Your mother was his slave before the war? A. No, my mother died before I was ever grown.

Q. You say your mother was a slave to Phillips? A. Yes, sir.

Q. When were you born, what year? A. I couldn't tell you that.

Q. Do you remember the war? A. Yes, sir; I remember the war.

Q. Were you living with your mother then? A. No, living with Joe Weaver.

Q. I am asking you when you were a little girl; were you living with your mother then? A. Yes, sir.

Q. Where was your mother living then? A. She was living ~~xxxx~~ here in the Nation.

Q. Where did she go during the war? A. Went to Texas. She is dead now.

Q. Did you go there with her? A. No, sir.

Q. Where did you stay? A. I stayed with old aunt Lidia Crittenden.

Q. Where was that? A. It was in Goingsnake.

Q. You say your mother died down in Texas? A. Yes, sir.

Q. She never came back during the war? A. No, sir.

Q. You have always lived in the Cherokee Nation, have you, since that time? A. Yes, sir.

Q. When was Charlotte Downing Morn? Your daughter Charlotte? A. She was born--I can't tell you. (Indicating to daughter present) That there one was born after peace was made. She is two years older.

By applicant's daughter: 36 years old.

Q. Is your daughter Charlotte married? A. Yes, sir.
 Q. What is her husband's name? A. John Newton.
 Q. Did she ever marry any one by the name of Downing?
 A. Yes, sir.
 Q. What was his name? A. Jim Downing.
 Q. Was he a Cherokee? A. Yes, sir; he was a Cherokee.
 Q. Did they have any children? A. No, sir; they never had any children.
 Q. He is dead, is he? A. Yes, sir; he is dead.
 Q. Then she married her present husband? A. Yes, sir.
 Q. John Newton? A. Yes, sir.
 Q. When did she marry him? A. I couldn't tell you. I can't tell you.

By Mr. Newton: 7th day of December, a year ago.
 Q. Does your daughter Charlotte appear on the roll of 1896 with you? A. Yes, sir. They sent for me to come here and put my children on the roll. That is why I come in.
 Q. Where were you living in 1896? A. I was living in Goingsnake.
 Q. Was your daughter Charlotte living with you then? A. Yes, sir.
 Q. Your daughter Charlotte? A. Yes, sir.
 Q. Was she married then? A. She was married but her old man died.
 Q. She was a widow then? A. Yes, sir.
 Q. How did your name get on the 1896 roll, do you know? Who enrolled you? A. Henry Crittenden.
 Q. Who is Henry Crittenden? A. He is George Crittenden's brother.
 Q. What relation is he to you? A. Not any to me.
 Q. He was one of the census takers, wasn't he? A. Yes, sir.
 Q. Who was the other one? A. I don't know who the other was.
 Q. Dick Alberty? A. I believe it was Dick Alberty.
 Q. This Crittenden wasn't any relation to you? A. He was a little kin to me but I don't claim it.
 Q. What relation was he? A. His daddy and my daddy was cousins.
 Q. You say Henry Crittenden and Dick Alberty enrolled you in 1896?
 A. Yes, sir.
 Q. What name did you give them? A. I gave my name Emily Crittenden.
 Q. Did you give your daughter's name? A. Yes, sir.
 Q. What name did you give her? A. She went by the name of Charlotte Downing, after she was married. We just called her Charlotte Robbins before she was married.
 Q. When you gave her name in 1896 you gave it Charlotte Downing?
 A. Yes, sir.
 Q. Who else was enrolled with you at that time? A. Lottie.
 Q. Lottie Robbins? A. Yes, sir. All my children was put on the rolls.
 Q. Well, I am asking you who they were. Who else? A. Charlotte Robbins.
 Q. Who else? A. Rachel Woodall.
 Q. Were you all put on that roll under the name of Crittenden?
 A. Yes, sir.
 Q. How did you come to do that? A. My daddy was a Crittenden and I put it down that way.
 Q. Your daughter wasn't a Crittenden? A. Well, I put her down as Charlotte Downing after she was married.
 Q. And you put your daughter Lottie down and Lottie Robbins?
 A. Yes, sir.
 Q. How did you give Rachel? A. Rachel Woodall.
 Q. Who else was there? A. Rant Crittenden and Bullet Weaver.
 Q. Is Lewis Weaver and Bullet Weaver the same person?
 A. Yes, sir.
 Q. That is your son? A. Yes, sir.
 Q. By Joe Weaver? A. Yes, sir.

Q. Now, you had another daughter, did you; Mary? A. Yes, sir; Mary Weaver.

Q. What is her name now? A. She goes by the name of Mary Crittenden.

Q. Was she married? A. Yes, sir.

Q. Who did she marry? A. She married Ben Crittenden.

Q. Is she on the 1896 roll? A. I don't know whether she is or not. He said she was.

Q. Who said? A. Ben said so.

Q. She was married in 1896? A. Yes, sir.

Q. Wasn't living with you? A. No, sir.

Q. Who is Tom Kirk? A. His daddy's name is Robert Kirk. He is a white man.

Q. Who is his mother? A. I am his mother.

Q. His daddy is Robert Kirk? A. Yes, sir; His daddy is dead.

Q. Was he a white man? A. Yes, sir.

Q. He wasn't a citizen of the Cherokee Nation? A. Yes, he married her.

Q. Who did he marry? A. Mose Crittenden's step daughter.

Q. What was her name? A. Becky Woods.

Q. Is she dead? A. She isn't dead, I don't reckon.

Q. Was that before you lived with him or afterwards? A. It was after he lived with me.

Q. He hadn't been married to any one when you commenced living with him? A. No, sir.

Q. How long did you live together? A. Lived together about a year.

Q. Tom Kirk is your son by him? A. Yes, sir.

Q. Where is Tom Kirk living now? A. He is living in Tahlequah district.

Q. Is he married? A. Yes, sir; he is married.

Q. What is his wife's name? A. Her name is Susie Kirk.

Q. Is she a Cherokee? A. She is a Cherokee.

Q. They have some children? A. Yes, they got six children.

Q. What do you know about your daughter Charlotte's marriage to Downing; do you know they were married? A. Why, certainly I know that they was married.

Q. Were you there when they were married? A. No, sir; I wasn't but her sister went right with her.

Q. Who was the preacher? A. The clerk.

Q. Clerk of what district; Goingsnake district? A. Yes, sir.

Q. You say he married your daughter Charlotte to this man Downing? A. Yes, sir; he married them.

Q. They lived together how long? A. He was put in jail and he died, in Fort Smith.

Q. Do you remember what year that was? A. No, sir; I don't.

Q. They lived together from the time they were married up to the time he was put in jail in Fort Smith? A. Yes, sir.

Q. Did she have any children by him? A. No, sir.

Q. What is her present husband, a white man? A. Yes, he is a white man, I reckon.

Q. They were married about a year ago? A. Yes, sir.

Q. You are claiming the right to be enrolled as a Cherokee by blood? A. Yes, sir; I got more Cherokee in my than anything else.

Q. Did you draw any money in 1894? A. No, sir; they beat me out of it. I never drawed any.

Q. Who did your mother go with to Texas before the war? A. She went there with the children.

Q. With this Phillips? A. No, he never went there. He died here.

Q. Phillips wasn't a citizen of the Cherokee Nation? A. Yes, sir; he was a citizen.

Q. I thought you said he was a white man? A. Well, he was a white man.

Q. He was a white citizen, was he? A. Yes, sir.
Q. Did you live with your mother while she was a slave of this man Phillips? A. No, sir; Sidney Phillips raised me. I never lived with her.

Examination by Mr. Hastings.

Q. Where were you living when you were born? A. Living in the Cherokee Nation.
Q. I want to know where you were living. Were you living in Goingsnake? A. Yes, sir; I was living in Goingsnake--in Flint, that is where I was living.
Q. On whose place were you living when you were born? A. On old aunt--Jack Wright's mammy.
Q. Your mother was a slave at the time you were born? A. Yes, sir.
Q. Who was she a slave of when you were born? A. She was living with Phillips.
Q. At that time? A. Yes, sir.
Q. How long did you continue to live with Phillips yourself, to what age? A. I don't know what age I was. I was about--I don't know exactly how old I was.
Q. Who did you live with? A. Sidney Phillips raised me. The old man died.
Q. And you belonged to his wife? A. No.
Q. She kept you? A. Yes, sir.
Q. Were you with her when the war came up? A. Yes, sir.
Q. You were with her when the war started? A. Yes, sir; I was living there with her.
Q. Your mother was living there to? A. No, sir; she was dead.
Q. Did she die before the war? A. Yes, sir.
Q. How long? A. I don't know how long.
Q. About how long? A. About 8 years I reckon, before the war came up.
Q. Where did your mother die? A. She died in Texas.
Q. As I understand you, you stayed with the same Phillips family that owned your mother? A. Yes, sir.
Q. But the old man Phillips died, you were with his widow? A. Yes, sir.
Q. They had taken your mother to Texas and she died before the war? A. Yes, sir.
Q. You continued to live in the Cherokee Nation? A. Yes, sir; I was raised here.
Q. This Tom Kirk was born before the war, wasn't he? A. Yes, sir.
Q. This Lewis or Bullet Weaver was born before the war? A. Yes, sir.
Q. Mary was born--wasn't she born before the war? Ben Crittenden's wife? A. Yes, sir.
Q. Then all three of these children were born before you left there? A. Bullet and Rant and Mary.
Q. Bullet and Tom? A. Yes, sir.
Q. All three of them? A. Yes, sir.
Q. You had these children by two men, Tom Kirk and Joe Weaver? A. Yes, sir.
Q. You were never married to any of them? A. No, sir; I wasn't married to any of them.
Q. When was Charlotte--was she born before the war or during the war? A. Charlotte was born after the peace was made; her and her sister.
Q. You never took her father's name? A. No, sir.
Q. Never was married? A. No, sir.
Q. Never pretended to be? A. No, sir; I never was married. I lived with him at aunt Lidia Crittenden's.
Q. Didn't live as husband and wife? A. Yes, sir.
Q. How long? A. About 3 years--about 4 years; growing on four years, when he died.

Q. Were you living with him when he died? A. Yes, sir.
 Q. Name the first child that was ever born to you?
 A. His name was Rant Crittenden.
 Q. Was he born before the war? A. Yes, sir.
 Q. Who was his father? A. Mose Crittenden.
 Q. What was the next child born to you? A. Bullet.
 Q. That was Bullet or Lewis Weaver? A. Yes, sir.
 Q. The next one that was born to you? A. Mary.
 Q. Mary Crittenden? A. Yes, sir.
 Q. The next one that was born to you? A. Rachel.
 Q. Rachel Woodall? A. No, sir; Tom was next.
 Q. Tom Kirk? A. Yes, sir.
 Q. When was Rachel born? A. I don't know. She was born the first year peace was made.
 Q. Did you live with Rachel's father? A. Yes, sir.
 Q. As his wife? A. Yes, sir. He went off in time of war.
 Q. Who was her father? A. Her daddy was a Woodall.
 Q. I want to know his first name; whether it was John, Jack or Bill? A. Just George Woodall.
 Q. Did you have any other children by George Woodall? A. No, sir.
 Q. What was the next child you had born to you? A. Tom, I believe.
 Q. Tom who? A. Tom Kirk, I believe was next to Rachel.
 Q. Who did you say his father was? A. I told you his father was Kirk.
 Q. I want to know whether it was Bill or Jack or what?
 A. It was Robert Kirk.
 Q. Were you ever married to Robert Kirk? A. No, sir.
 Q. How long did you live with Robert, did you live with him as husband and wife? A. I lived with him about a year.
 Q. The next child after Tom; was that Charlotte? A. Charlotte and Lottie.
 Q. How long after the war was Charlotte born? A. About 2 years.
 Q. You say you lived with the father of Charlotte and Lottie until he died? A. Yes, sir.
 Q. His name was Josh Robbins? A. Yes, sir.
 Q. You lived with him? A. Yes, sir; there at aunt Lidia's.
 Q. Did you have a separate house? A. No, sir; all living together.
 Q. Did he have any other woman? A. No, sir.
 Q. Have any children by any other wife? A. No, sir.
 Q. Ever claim? A. Never claimed any. Never had any children by any other woman.
 Q. How old was he when he died? A. 21 or 22.
 Q. They never paid you any money in 1894? A. No, sir.
 Q. You have been applying to the council for citizenship several years? A. Yes, sir. They put me off and the next council put me off and the next---
 Q. They never admitted you? A. They said they would.
 Q. They never did? A. No, sir.
 Q. When you applied to be enrolled you found you weren't admitted?
 A. Yes, sir. They said they would put me on.
 Q. That was these citizenship attorneys that wanted your case?
 A. Yes, sir.

Examination by the Commission.

Q. Did your daughter Charlotte and her husband part?
 A. He just went off and left her and never come back. He was teaching school out here.
 Q. He never come back? A. They lived together about a year. He just went off. He told her he would be back and he never did come back. The next time she heard of him he was in jail.
 Q. What was Downing's name? A. Jim Downing is all I know.
 Q. I thought you said they were living together until he went to Fort Smith? A. Well, they did. He just went off and left her.

He never did come back. I can prove that. He got to whiskey peddling.

Q. She never gave him any cause to leave her? A. No, sir; she never gave him any cause to leave her.

Q. Do you know how many years they lived together? A. She didn't live with him but about a year, I reckon.

Q. He just went off and left her? A. Yes, sir.

Examination by Mr. Hastings.

Q. Had she any children before this? A. No, sir.

Q. Never married before this? A. No, sir.

Q. Never lived with any one before this as husband and wife?

A. No, sir.

Q. Did Jim Downing ever live with any one else? A. She never knowed of him living with anybody until after he left her-- a Cherokee woman.

Q. Had he been living with anybody before that? A. Not that we knowed about. We found out after he wrnt off and left Charlotte.

Q. I don't want to confuse you. Didn't you find out after he left Charlotte that he had been living with another woman as his wife? A. Yes, sir. After he left Charlotte we found he had been living with another woman as his wife.

Q. Had he been living with this other woman before he married Charlotte? A. I can't tell you. I heard of it afterwards; they said he was living with her.

Q. Did they say that this man Downing had been living with this other woman before he married Charlotte? A. Yes, sir.

BY THE COMMISSION:

Q. Was Jim Downing dead before Charlotte married this man Newton.
A. Yes, sir.

Examination of the Cherokee Tribal Rolls and also of the records of this Commission, shows that Emily Weaver is identified on the Cherokee Census roll of 1896, at page 735, #499, Goingsnake District, under the name of Emily Crittenden, a native Cherokee;

That Mary Crittenden, Cherokee D-51, a daughter of said Emily Weaver, is identified on the Cherokee Census Roll of 1896, at page 736, #511, Goingsnake District, as a native Cherokee;

That Lewis Weaver, Cherokee Freedman Doubtful #1, is identified on the authenticated tribal roll of 1880, at page 497, #2155, Goingsnake District, as adopted colored;

That Thomas Kirk, Cherokee D-963, a son of said Emily Weaver, and who is claiming the right to enrollment by virtue of intermarriage with a Cherokee citizen, is identified on the Cherokee Census Roll of 1896, at page 1202, #1956, Tahlequah District, as a Cherokee by blood;

That Rachel Woodall, Cherokee D-2443, a daughter of said Emily Weaver, is identified on the authenticated tribal roll of 1880, Tahlequah District, at page 821, #2566, as a native Cherokee, and

That Lottie Robbins (now Lottie Alberty), Cherokee D-2901, a daughter of said Emily Weaver, is identified on the Cherokee Census Roll of 1896, at page 783, #1764, Goingsnake District, as a Cherokee by blood.

IT IS ORDERED, that copies of this testimony be filed with and made a part of the record in the following cases:

Charlotte Downing, D-1220; Peggie Whitmire, et al, R-618; Lottie Alberty, D-2901, and Thomas Kirk, et al, Cherokee D-963.

The tribal rolls of the Cherokee Nation have been examined for the name of Josh Robbins, the alleged husband of Emily Weaver and the father of Lottie Alberty and Charlotte Downing, and his name can not be found thereon. The only Joshua Robbins to be found on the rolls is an old man on the 1880, 1883, 1886 and 1890 rolls of Tahlequah District, and he is identified on all of said rolls with the same family of children, by a white wife, all of which children now living, have been enrolled by this Commission.

It is considered, from the testimony herein, that said person is not the Joshua Robbins referred to by this applicant.

Jesse O. Carr, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the above entitled case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Jesse O. Carr

Subscribed and sworn to before me this 4th day of February, 1903.

Samuel Foreman

Notary Public.

Mem. # 348

1. The first of these is the fact that the Government has not been able to secure the necessary funds to carry out its policy of non-interference in the internal affairs of the Republic of China.

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ACTING CHAIRMAN

9

[Faint handwritten signature]

Muskogee, Indian Territory, July 19, 1902.

The Honorable,

The Secretary of the Interior,

Sir:

Under date of October 8, 1901, the Commission rendered a decision in certain Cherokee Memoranda cases. Embraced in said decision was the application of Emily Weaver for the enrollment of herself and her child, Lottie Robbins, as citizens by blood of the Cherokee Nation.

It appears from the record in this case that the father of Emily Weaver was Lewis Crittenden, a Cherokee by blood, and her mother Nellie Cole, a Cherokee Freedman.

When application was made to the Commission, neither the applicant nor her child were identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission and the application was rejected under the provisions of the act of Congress approved May 31, 1900.

The Department, in its letter of January 3, 1902 (I.T.D-5698-1901), affirmed the decision of the Commission rejecting said application in accordance with the provisions of the act of Congress of May 31, 1900. Subsequent to the rendition of the Commission's decision and the receipt of the Department's letter, the applicant, Emily Weaver, was duly identified on the Cherokee Census Roll of 1896, in Goingsnake District.

In view of the fact that the applicant is identified on said roll, the Commission respectfully requests that the Department withdraw its letter of January 3, 1901, affirming decision of Commission under date of October 8, 1901, rejecting the application of Emily Weaver for the enrollment of herself and child, Lottie Robbins, as citizens by blood of the Cherokee Nation and remand the

case in order that a decision may be prepared in conformity with the facts as now shown and for the purpose of taking additional testimony, if necessary.

Very respectfully,

T. B. Needles,

Commissioner in Charge.

Through Commissioner
of Indian Affairs.

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72518--1901
44006--1902

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,

Washington, July 30, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made on July 19, 1902, by the Commission to the Five Civilized Tribes, referring to the Cherokee memorandum case of Emily Weaver who applied for the enrollment of herself and of her child Lottie Robins as citizens by blood of the Cherokee Nation. The Commission states that its decision rejecting the applications was affirmed by the Department on January 3, 1902, (I.T.D. 5698--1902); that the Commission in transmitting the case reported that the applicant's name was not found on the tribal rolls; but that since the receipt of the Department's letter above mentioned the applicant, Emily Weaver, has been identified on the Cherokee census roll of 1896 in the Going Snake district, and it asks that the case be remanded in order that a decision may be prepared in conformity with the facts, and that addition-

al evidence may be secured if deemed necessary.

It is respectfully recommended that the case be remanded to the Commission in accordance with its request.

Very respectfully,
Your obedient servant,

A. C. Tenner,

W.C.V.(S)

Acting Commissioner.

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I.T.D.4641-1902.

DEPARTMENT OF THE INTERIOR.
Washington.

WHR.

LRS.

August 2, 1902.

The Commission

to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of your communication dated July 19, 1902, relative to Cherokee Memorandum case No. 348, covering the application of Emily Weaver, for the enrollment of herself and minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation.

You report that subsequent to the rendition of your decision rejecting the application (October 8, 1901) and the receipt of departmental letter of January 3, 1902, affirming your said decision, the applicant was duly identified on the Cherokee Census roll of 1896, in Goingsnake District, and in view of this fact you request that the Department withdraw its letter of January 3, 1902, affirming your decision rejecting the application, and remand the case in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary.

The Acting Commissioner of Indian Affairs forwarded your said report under date of July 30, 1902, concurring in your recommendation that the case be remanded.

The Department concurs in said recommendation and hereby withdraws its letter of January 3, 1902, affirming your decision rejecting the application.

The record is accordingly transmitted in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,


(Signed) Thos. Ryan

Acting Secretary.

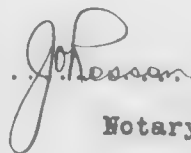
HMD.

2 Inclosures.

I, the undersigned, Chief Clerk of the Cherokee Land Office and
custodian of the records of said land office, hereby certify that
the foregoing is a true and correct copy of the original documents
on file in said office.

..........

Subscribed and sworn to before me this 9th day of February, 1903.

..........
Notary Public.

United States of America.)

Northern District.)

Indian Territory.)

In the latter of the application of Charlotte Loring, and Lottie Robbins, Schoolchildren as Citizens of the Cherokee Indian Territory, on this the 8th day of June 1904, personally came before me, a Notary Public within and for the Northern District Indian Territory, Melvina Tolson of Westville Indian Territory, and being duly sworn Depose as follows, in relation to said case, that said Charlotte Loring, and Lottie Robbins of Westville Indian Territory with my Post office at Westville Indian Territory, and a Cherokee Indian by blood.

I have known Charlotte Learning and Lottie Robins during their natural life, they were both born here in the Cherokee Nation, and their mother, Emily Warner was a slave before the war and belonged to Big Phillip, and a very illing who was a Cherokee Indian, after Emily Warner was freed, she lived with John Robins who was a Cherokee Indian and there the children, Charlie Learning and Lottie Robins were born to them, the children were always recognized by John Robins, he was a white man, and after John Robins died, Emily Warner and John Robins lived at, and after Emily Warner died in 1861, to 1865. I have known all of the children of Emily Warner, and I have known all of the children of John Robins, and I have known all of the children of Emily Warner, and I have known all of the children of John Robins.

THIS DOCUMENT IS UNCLASSIFIED DATE 01-21-2004 BY 60322 UCBAW

woodie Gorman { winters & marks

Melvina^{her} + Folsom^{mark}

In testimony whereof I have hereunto set my hand and seal as such Notary Public this 26th day of June 1924.

R.H. Couch

Compl. in. type. Jan. 29th. 1897.

United States of America } ss
Northern District Indian Territory }

On this the 6th day of June 1904, personally appeared before me a Notary Public - within and for the Northern Dist. Indian Territory, ^{Nellie Kelley} and being duly sworn, deposes that she is a Cherokee Indian by blood, that she has known Charlotte Downing and Sattie Robins, for 36, and 38 years from their infancy, that she knew their mother, Emily Weaver, and that Emily Weaver was a slave before the war of 1861, and belonged to Sige Phillips, and his wife Sidney Phillips who was a Cherokee Indian, that after the war and Emily Weaver was freed she came to this country, and was married to Josh Robins under the Cherokee customs, and the two children Charlotte Downing and Sattie Robins were born to them, and that Josh Robins was a Cherokee Indian by blood. I know that these two children, Charlotte Downing and Sattie Robins are the children of Emily Weaver, and Josh Robins.

I further declare that I am more than 75 yrs. of age, and that I fully understand the contents of this paper, which has been fully read and explained to me.

Martha Vanmatre } witnesses

Nelly + Nelly
her marks

Subscribed and sworn to before me this 6th of June 1904.

Rt H Couch
Notary Public

My term of Office expires Jan. 28-1907.

1961 25 2

1. The first step in the process of the development of the new system is the identification of the need for a new system. This is done by the management of the organization, who are responsible for the overall direction and control of the organization. The management will identify the need for a new system by analyzing the current system and determining the areas where improvements are needed. This analysis will take into account the current system's strengths and weaknesses, the organization's goals and objectives, and the changing needs of the organization's customers and stakeholders.

FILED
DEC 24 1904
COMMISSION TO FIVE TRICES.

Prof. W. B. E. B.

1892

Cherokee D-1220

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T. November 15, 1904.

SUPPLEMENTAL PROCEEDINGS in the matter of the application for the enrollment of Charlotte Downing as a citizen by blood of the Cherokee Nation.

It appears that on the 29th day of September, 1904, the applicant, her attorney and the attorney for the Cherokee Nation, were duly notified by letter that an opportunity would be given each of them to appear before the Commission at its offices in Muskogee, Indian Territory, on the 15th day of November, 1904, and then and there introduce testimony touching the points mentioned in said letter.

APPEARANCES:

Applicant appears in person and by attorney,
R. H. Crouch.
Cherokee Nation by Attorney , W. W. Hastings.

CHARLOTTE NEWTON, being duly sworn testifies as follows:

BY R. H. Crouch:

- Q What is your name? A Charlotte Newton.
Q What is your husband's name? A John Newton.
Q Where do you live? A I live at Westville, Indian Territory
Q What is your age? A 14, I guess I am 14. I mean 36
I am 36, as near as I can come at it.
Q When were you married to John Newton? A Three years ago
Q Had you been married prior to that time? A Yes, sir.
Q What was your first husband's name? A Jim Downing
Q When did you marry Jim Downing? A It has been about 14
years, or 16. Sixteen years I guess.
Q Where did you marry him? A At Mr. Wright's, Jack Wright's,
Cherokee Nation, Indian Territory.
Q Was he a Cherokee Indian? A Yes, sir.
Q Were you born in the Cherokee Nation? A Yes, sir.
Q Who is your mother? A Emily Crittenden
Q Are you a sister of Lottie Robbins? A Yes, sir
Q What is your father's name? A Josh Robbins.
Q Is he living? A No, sir.
Q Are you a sister of Rachel Woodall? A Yes, sir.
Q Full sister or half sister? A Half sister.
Q Now I will ask you if your father, Josh Robbins, was a Cherokee Indian? A Yes, sir.
Q How long has he been dead? A Well, I could not just
tell you that, Mr. Crouch, how long he has been dead.
Q Do you know how old you were when he died? A Well, I guess
I was about five or six years old when he died.
Q You have lived here in the Cherokee Nation all your life?
A Yes, sir.

BY W.W. HASTINGS:

- Q You are not a full sister of Rachel Woodall? A No, sir.
- Q You have a different mother? A No, sir, same mother.
- Q But different father? A Yes, sir.
- Q What was Rachel Woodall's father's name? A I don't just now what his name was, but he was a Woodall.
- Q You are a full sister of Lottie Hobbins? A Yes, sir.
- Q Same father and same mother? A Yes, sir.
- Q What relation to you is Bullette Weaver? A Half sister, have same mother.
- Q Your mother, Emily Weaver, was a slave before the war was she?
- A Yes, sir, that's what they say she was.
- Q And there never was any proof of any marriage between your alleged father and your mother?
- A No, sir, only under Cherokee rules.
- Q They never were married? A No, sir.
- Q You never did, at any time, succeed in getting on any Cherokee rolls except as the wife of your former husband, Downing, did you? A No, sir, I didn't try to get on the rolls by marriage with my husband at all. I tried for a Cherokee right when I come to Muskogee, and that time that you all was at that place, Gibson.
- Q But you never were on any Cherokee Roll before 1896?
- A I don't know whether we was on the roll or not, but they said we was on the roll.
- Q But if you were on the roll you never knew it?
- A That was what they told mother.
- Q You and your mother and your family have always been applicants for Cherokee citizenship, haven't you?
- A Yes, sir, we have tried for a Cherokee right.
- Q And the Cherokee Council never would admit you, would it?
- A Yes, sir, they said it did.
- Q But you have got no record showing the fact that the Council ever admitted you, have you? A No, sir.
- Q You say your former husband's name was Jim Downing? A Yes sir.
- Q Is Jim Downing dead? A Yes, sir.
- Q When did he die? A He has been dead a good while, I could not just tell you right at this time how long, but he has been dead a good while.
- Q About how long? A I guess about five or six years.
- Q He was living then, when you were placed on this 1896 roll?
- A No sir, he has been dead longer than that.
- Q That was eight years ago, and you said he had been dead five or six years, is that right?
- A I don't know just how long he has been dead.
- Q Well, now, what is your best judgment as to how long he has been dead? A I don't know how long he has been dead.
- Q And you married this man Newton about three years ago?
- A Yes, sir.
- Q Before that you were the widow of Jim Downing, a Cherokee?
- A Yes, sir.
- Q You never did draw any Cherokee money? A No, sir.
- Q And yet you say you have lived in the Cherokee Nation all your life? A Yes, sir.
- Q Now there was a payment in '75, another in '80, there's another in '83, another in '86, and another in '90 and another in '94, and yet you admit that through all of these payments you were not recognized as a citizen, and not permitted to draw money, were you?
- A No, sir, we never drew any money. We could not draw any, could we, unless we were on the roll?
- Q You were trying for a right all this time, and they never did admit you, did they? A No, sir.

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BY R. H. CROUCH:

- Q Mrs. Newton, how long did you live with Jim Downing, as well as you can remember? A I lived with him a year, I think, a year and a half, the best that I can tell.
- Q Did you separate? A Yes, sir.
- Q How long after you separated, as well as you remember, until he died? A Well, I can't just give it to you how long.
- Q Now, from the time you separated until he died, as well as you can remember? A Well, now, from the time we separated, he went out west, and he was gone, I guess, about five or six years when I heard he was dead, as well as I remember.
- Q Then you didn't know just when he died? A No, sir.

BY COMMISSION:

- Q Is your mother living? A Yes, sir.
- Q She has been enrolled by the Commission, has she, or do you know? A Not as I know of, she has been before them, but I don't think she has ever been enrolled.
- Q Is your father living? A No, sir.
- Q You say your father's name was Josh Robbins? A Yes, sir.
- Q How long has he been dead? A Well, I just couldn't tell you how long my father's been dead.
- Q About how long? A I could not tell you that; I was small; I don't remember him.
- Q Can you remember him at all? A No, sir.
- Q Your mother has told you that Josh Robbins was your father? A Yes, sir.
- Q Where were you born? A I was born on the prairie; Indian Territory, close to Westville.
- Q What Nation is that? Indian Territory.-- Cherokee Nation.
- Q Do you know where your father lived during his life time? A Yes sir, he lived right close to Westville, in Indian Territory.
- Q Do you know what District that is in? A No, sir, but it is in the Indian territory, Cherokee Nation.
- Q Do you know whether or not it is in Goingsnake District? A I don't know. Yes sir, it is in the Nation.
- Q Do you know what age your father would be if he was living? A No, sir.
- Q You don't know? A No, sir.
- Q You don't know what age man he was when you were born? A No, sir.
- Q Who told you he was a Cherokee Indian? A My mother told me.
- Q Your mother? A Yes, sir.
- Q Has your mother testified for you in this case? A No, sir, I testify for myself.
- Q Has your mother ever been here in your behalf? A Yes, sir, she is here now.

EMILY CRITTENDEN, having been duly sworn, testifies as follows:

BY R.H. CROUCH:

- Q What is your name? A My name is Emily Crittenden.
- Q How old are you? A Eighty-six years old.
- Q Where do you live? A On Pinar's Creek, in Goingsnake District.
- Q Is that in the Cherokee Nation? A Yes, sir.
- Q Are you acquainted with Charlotte Newton? A Yes, sir, she's my daughter.
- Q With Lettie Robbins and Rachell Woodall? A Yes, sir.
- Q I will ask you if you are the mother of these three parties? A Yes, sir.
- Q How old is Charlotte Newton? A She is about 20 or 24

Cherokee D-1220, Charlotte Downing-4-

- Q Mrs. Crittenden, where were you born? A In the Cherokee Nation, Flint District.
- Q What was your mother's name? A My mother's name was Nellie Kelly, after she was married.
- Q Was she a Cherokee? A She was not a full blood Cherokee, She had some Cherokee blood in her.
- Q What was your father's name? A My father's name was Lewis Crittenden.
- Q Was he a Cherokee Indian? A Yes, sir.
- Q Was your mother a slave before the war? A Yes, sir, she was.
- Q Were you a slave before the war? A Yes, sir.
- Q To whom did you belong, who was your mistress at first?
- A Carrie Wright.
- Q She was a Cherokee A Yes, sir, she was a Cherokee.
- Q Did you belong to her until the close of the war; at the time the slaves were freed?
- A No, sir, she was dead and Phillips married a woman by the name of Sidney Crittenden.
- Q Was she a Cherokee? A Yes, sir.
- Q And you belonged to them, up until the close of the war?
- A Yes, sir.
- Q You have always lived here in the Cherokee Nation, have you?
- A Yes, sir.
- Q Who is Rachel Woodall's father? A His name was George Woodall.
- Q Was he an Indian? A Yes, sir. He wasn't a full blood Indian; he was half.
- Q When was Rachel Woodall born, relative to the Civil war.
- A She was born the fall after peace was made.
- Q Who is Charlotte Newton's father? A Josh Robbins.
- Q And who is Lottie Robbins' father? A Josh Robbins.
- Q Then these two last have the same father? A Yes, sir.
- Q Now I will ask you if you were married to Josh Robbins?
- A No sir, not legally married.
- Q When did you begin living with Josh Robbins?
- A The year after peace was made.
- Q Did you and Josh Robbins live together as husband and wife?
- A Yes, sir.
- Q How long did you continue to live together? A We lived together about four years.
- Q Where did you live during this time? A We lived right close to Westville, on that prairie close to Westville, where Hose Alberty's son lived, I can't remember that man's name now,-- Thomas lived there. Lived on Aunt Liddy's place.
- Q Have you ever lived with any one else since you lived with Josh Robbins? A No, sir.

BY W.W. HASTINGS:

- Q You lived with Josh Robbins during the war didn't you?
- A No, sir, not till after the war, after peace was made.
- Q Now didn't you testify in this case, at Vinita, on January 23, 1903, that-- A I said Joe Weaver; I lived in time of the war with Joe Weaver.
- Q You never was married to Josh Robbins? A No, sir.
- Q Never was married to Joe Weaver? A No, sir, just lived with him.
- Q When did Josh Robbins die? A I don't know when he died; He died about--
- Q How long after the war? A He died seven years after the war.
- Q Then he died about '72 or '73, is that right?
- A Yes, sir, I guess that's right.
- Q Where did he die? A On that prairie, up where Aunt Liddy lived
- Q Near Westville, in Goingsnake District? A Yes, sir.

Cherokee D-1220, Charlotte Downing-S-

- Q How old was Charlotte when he died? A Going on four years old.
- Q Were you and Josh Robbins living together when he died?
- A Yes, sir.
- Q Didn't he quit you? A No, sir.
- Q When did he commence living with you, before the war closed?
- A No, sir, just about the time the war closed.
- Q Before the Treaty? A Yes, sir.
- Q You have been an applicant for citizenship in the Cherokee Nation ever since the war? A Yes, sir, I was born and raised here, and in that war when we all went north, I went out. I was grown.
- Q Went north then? A West--or we went towards Texas.
- Q Didn't you go east? (No response)
- Q Who went? A Old man Phillips and all of us.
- Q Is any of old man Phillips' family living now?
- A Noah Wisenbunt's wife is living now.
- Q Where does she live? A She lives at Vinita, out here.
- Q You didn't call her when you were at Vinita, did you?
- A No, sir, I didn't thin about it.
- Q You were never married to Josh Robbins.
- A No, sir, I never was married to Josh Robbins.
- Q You have been trying for admission ever since the war, and they never would admit you, would they? A They told me they would admit me.
- Q But you never got any certificate did you? A No sir, they told me they would admit me.
- Q They never did admit you, did they? A Mr. Crittenden told me he put me and my children on the roll.
- Q But they can't find you, can they? A No, sir.
- Q Now, this man Josh Robbins died about seven years after the war? A Yes, sir, about that long.
- Q Do you know Moses Phillips at Westville? A Yes, sir.
- Q Was he any relation to the rest of the Phillips's?
- A Yes, sir, he was old lady Phillips's sister's son.
- Q Now, where did you go in time of the war. Did you go north or south or east or west? A We went out,--north I reckon.
- BY MR CROUCH:
- Q Tell him what point,-- where did you go to
- A We went out on Red River, towards Texas.
- BY MR HASTINGS:
- Q You don't know whether that was north, south, east or west?
- A Went south, that's what they called it.
- Q When you came back, where did you come to
- A We came on that prairie, out towards Westville, where old Aunt Liddy Quentin lived. I lived with her.
- Q What year is this? A I couldn't tell you
- Q You don't know any years? A No, sir, don't know any years at all.
- Q Never did know any? A No, sir
- Q How many people did you live with, and are you the mother of children by?
- A I never lived with anybody but Joe Weaver and Josh Robbins
- Q Never was married to either of them? A No, sir.
- Q Was Josh Robbins ever married before he lived with you?
- A No, sir.
- Q Did he ever marry anybody after he lived with you?
- A Why, no sir, he died. He died while he was living with me.
- BY COMMISSION:
- Q Where did Josh Robbins live when you first got acquainted with him? A He lived in the Cherokee Nation. He was born and raised here.
- Q In what place? A On Barren Fork
- Q What District is that in? A In Goingsnake District
- Q How long has Josh Robbins been dead? A I don't know,

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about seven or eight years. About seven or eight years after the war.

- Q Where did he die? A He died up close to Westville.
Q You say it was about 1872 he died? A Well, I don't know.
Q Did he die prior to the making of the 1880 Roll?
A Why, I don't know.

BY MR. HASTINGS :

- Q Now, Auntie, this witness that was on the stand before, testified that Josh Robbins died when she was so young that she cannot remember her father, is that correct? A Yes, sir, that is correct.
Q Now, this witness gives her age as 35 or 36 years?
A Yes, sir.
Q Now, if that be true, Josh Robbins must have died something like thirty years ago? A Well, you are right, Mr. Hastings,
Q Then you mean to say that Josh Robbins died about seven or eight years after the war, or about 28 or 30 years ago?
A Yes, sir, you are right, Mr. Hastings, that is what I meant.

RACHEL WOODALL, being duly sworn, testifies as follows:

BY R. H. CROUCH:

- Q What is your name? A Rachel Woodall
Q How old are you? A 38.
Q Where do you live? A In Coinganake, Indian Territory.
Q Is that in the Cherokee Nation? A In the Cherokee Nation.
Q Do you live near where Emily Crittenden lives? A Live with Emily Crittenden.
Q Are you acquainted with Charlotte Newton? A Yes, sir.
Q Are you acquainted with Lottie Robbins? A Yes, sir.
Q How long have you known them? A All my life.
Q Are you related to them? A Half sister.
Q Do you know their father? A Yes, sir.
Q What was his name? A Josh Robbins.
Q How long did you know Josh Robbins? A Ever since I can remember
Q Do you know when Josh Robbins died? A I remember when he died, but I don't remember the year when he died.
Q With reference to the close of the war, how long was it after the war closed; How old were you, or about how old, when Josh Robbins died? A I reckon I was about sixteen.
Q About 16? Were you that old? A No, sir, I guess not, I made a mistake, I reckon I was about 13 or 14 years old when he died.
Q Did he and your mother, Emily Crittenden live together as husband and wife? A Yes, sir.
Q Were they living together as husband and wife when Charlotte and Lottie were born? A Yes, sir.
Q Did Josh Robbins claim them as his children? A Yes, sir.
Q What was your father's name? A George Woodall
Q Did you ever see him? A ~~Never~~. Yes sir.
Q You remember him? A Yes, sir.
Q Where did he live? A Down on the prairie close to Westville.
Q Did he and your mother live together as husband and wife?
A They lived together about two years, I reckon.
Q Was this during the war that they lived together? A Yes, sir
Q Do you know Israel Crittenden? A Yes, sir
Q What relation are you to Israel Crittenden? A He is my uncle.

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- Q What relation is Israel Crittenden to your mother?
A He is her half brother.
Q So Israel Crittenden's father and your mother's father is the same person? A Yes, sir.
Q What was his name? A Lewis Crittenden.
Q Do you know whether he was an Indian? A Yes, sir, we was always told that he was an Indian.

BY MR. HASTINGS:

- Q Now you are only testifying about what you have been told about the citizenship of these people, youm were too young to remember yourself, now wern't you?
A Well, sir, I was told by my mother.
Q Then all you know about these people is what you have been told? A Yes, sir, I know my father, I remember him.
Q You got your Cherokee blood through your father? A Yes, sir and through my mother too.
Q Your mother has never been recognized as a Cherokee citizen?
A Well, she was told that she was recognized.
Q Were you present when she was told that? A No, sir, but Henry Crittenden came home and told my sister.
Q You were not present at that time? A No, sir.

Comes now the representative of the Cherokee Nation and moves to strike out this hearsay testimony and requests the Commission to instruct the witness to testify only to things that she knows of her own personal knowledge.

- Q
Q How you know that your mother has been down to the National Council practically for the last 35 years trying to be admitted to citizenship in the Cherokee Nation, and that she has never been admitted, don't you?
A Yes, sir.
Q You know that she has tried to get on every pay roll that has ever been made since the war, and she neverm has been put on, has she?
A Yes, sir.
Q Did your father live with your mother until his death?
A She told me that she lived with him two years.
Q She lived with him two years? A Why, that is what she told me.
Q You don't know, then? A No, sir.
Q You don't know anything of what you testify except what you have been told, do you?
A Well I remember seeing him, my father.
Q When you were two years old? A (No response)
Q Now, do y u mean to say that your father and mother lived together two years, and during that time you were born and he died and still you remember your father? A (No response)
Q You must be mistaken about that, are you not, Mrs. Woodall?
A Well, I will take that back, Mr. Hastings, I guess I don't remember that.
Q Well, do you remember seeing Josh Robbins?
A Yes, sir, I remember seeing him.
Q Do you know about how long after the war Josh Robbins died?
A No, sir.
Q Your mother was never married to Josh Robbins was she?
A No, sir.
Q Did Josh Robbins ever have any other wife besides your mother?
A No, sir.

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- Q And Josh Robbins died a few years after the war? A Yes, sir.
Q Do you think as much as seven years after the war?
A About seven years, I reckon.
Q Now, all this that you have talked about, about the citizenship of these people is what has been told you by your mother? Is that correct? A Yes, sir.
BY COMMISSION:
Q You do not remember your own father at all, Mrs. Woodall?
A No, sir.
Q But you can remember Josh Robbins? A Yes, sir.
Q You think he died a few years after the war? A Yes, sir.
Q You were quite small when he died, were you? A Yes, sir, I was tolerable small.
Q Where did Josh Robbins die? A Right there about a mile from where Westville is now.

LEWIS WEAVER, being duly sworn testifies as follows:

- BY R. H. CROUCH:
Q What is your name? A Lewis Weaver.
Q Are you sometimes called Bullette Weaver? A Yes, sir.
Q How old are you? A Born in '51, or '2 or '3, I don't know which.
Q You know you are about 52 or 53 years old? A Yes, sir.
Q Where do you live? A In Goingsnake District.
Q Is that in the Cherokee Nation? A Yes, sir.
Q Are you acquainted with Lottie Robbins, Charlotte Newton and Rachel Woodall? A Yes, sir, they are my sisters.
Q Are they full sisters of yours? A No, sir, only half sisters.
Q Are you a son of Emily Grittenden? A Yes, sir.
Q Well, was you acquainted with the father of Charlotte Newton and Lottie Robbins. A Yes, sir.
Q Who was he? A Josh Robbins.
Q How long did Josh Robbins and your mother live together?
A They lived together three or four or five years. About five years, I reckon.
Q About when did they commence living together?
A After she came back to the Nation, I don't remember how long it has been.
Q How long after the surrender, after the close of the war?
A Well, it was about a year, I suppose, or two, I don't know which. I was small.
Q How long did they continue to live together? A How long?
Q Yes? A How long you say they lived together?
Q Yes, Josh Robbins and your mother? Why four or five years, until he died.
Q During the time they lived together were these two children, Charlotte and Lottie, born? A Yes, sir.
Q You lived there with them? A Yes, sir.
Q Did Josh Robbins claim these children as his children? A Yes, sir.
Q Was he a Cherokee Indian? A Yes, sir.
Q Do you remember when Rachel Woodall was born? A She was born the year peace was made, I believe.
Q Do you know who was her father? A No, I don't know, only just what they said.
Q Who did they say was her father? A They said Woodall.
Q Which Woodall? A I don't know his name.
Q Did your mother and this man Woodall live together as man and wife before that? A I don't know.
Q Was Woodall a Cherokee Indian? A I don't know that, either.
Q Now, Bullette, from the time that your mother and Josh Robbins commenced living together as man and wife did they live together until his death? A Yes, sir.

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- Q Did you live there with them? A Yes, sir, I lived there with them.
- Q Now, Bullette, were you a slave before the war? A Yes, sir
- Q To whom did you belong? A Lige Phillips.
- Q What was Lige's wife's name? A Sidney Phillips.
- Q Were they Indians? A The woman was, the old man was a white man.
- BY MR. HASTINGS:
- Q How many children was your mother the mother of? A How many?
- Q Yes, sir? A Blamed if I know, five or six or seven.
- Q Do you mean to tell the Commission that you don't know?
- A No, sir I don't mean to tell them I don't know.
- Q That's what I am asking you now, then?
- A Well she's got eight I believe living, or seven, I don't know which.
- Q How many dead? A Got one.
- Q How many children were born to her before the war? A How many
- Q Yes, how many? A there were three or four of us, four, Rant and Tom and Mary and me.
- Q Now how many were born since the war? A How many? three, I believe
- Q What were their names? A Charlotte and Lottie Robbins and Sam.
- Q What's Sam's name, what name does he go by? A I couldn't tell you that, He is dead.
- Q Was he older or younger than Charlotte? A Younger
- Q What name did he go by, his surname? A Sam King.
- Q Did you say he was younger than Charlotte? A Yes, he was younger than Lottie. Lottie is the youngest of the girls.
- Q Now your mother never was married to the father of any of these children? A Not that I know of.
- Q Now, your mother has been an applicant for citizenship ever since the war, and they never have enrolled her, have they?
- A Well, they told her she was all right on the rolls.
- Q Well you know she never drew any money in any of the payments, don't you? A Yes, sir.
- Q You know that Charlotte and Lottie never drew any money, don't you? A Yes, sir.
- Q You know that they have been applicants before the Councils, and that they have gone to Council after Council, and that they have never got any certificate of admission, don't you?
- A No, sir.
- Q How long did your mother live with the father of Sam.
- A How long? I don't know.
- Q Did she ever live with him? A I couldn't tell you that, That is something I don't know anything about. I can't tell you about nothing I don't know nothing about.
- Q How long did she live with Josh Robbins? A Well, she lived with him five years, four or five years.
- Q Begun when? A I could not tell you that.
- Q Nor you can't tell when Josh Robbins died? A No, sir, I can't, but I know they lived together, because I lived the re with them.
- Q Did she ever live with a man by the name of Woodall? A I told you awhile ago that I could not tell you that. I can't tell you unless I know.
- Q I am trying to find out what you know? A Well ask me something that I know and I will tell you.
- Q Well, you don't know what year Josh Robbins died?

BY COMMISSION:

- Q You never knew Woodall, the reputed father of your half sister Rachel? A Well, I have seen a man that they said was her father.
- Q Is that man dead? A Well, I couldn't tell you that, they say he's dead.
- Q How old were you when Rachel was born? A How old was I, I couldn't tell you that, I was about 10 or 12 years old I reckon.
- Q Then you ought to know whether your mother lived with a man by the name of Woodall? A There was one staying there; I don't know whether she lived with him or not.
- Q Well, you say you saw him there? A Yes, sir, I seen him there.
- Q You don't know whether he was an Indian or not. A No, sir I don't know.
- Q Do you know whether Josh Robbins was an Indian or not? A Yes, sir.
- Q He was an Indian, was he? A Yes, sir, he was.
- Q Cherokee? A Yes, sir.
- Q Who told you that? A Well, his granny, old Aunt Liddy Quentin, and his father, Levi Robbins, they was Indians.
- Q Rachel was born, you say, the year peace was made? Yes, sir.
- Q You have been enrolled by this Commission, have you Mr. Weaver? A I don't know, I went there, I don't know whether they put me on or not.
- Q Have you been notified by the Commission that you have been enrolled? A Not that I know of.

ISRAEL CRITTENDEN, being duly sworn testifies as follows:

BY R. H. CROUCH:

- Q What is your name? A Israel Crittenden.
- Q How old are you? A I don't know, I don't know my age.
- Q About how old? A About, somewheres up in 50 or 60, somewheres along there, as near as I can tell.
- Q Where do you live? A Live near Westville, Indian Territory.
- Q Are you acquainted with Charlotte Newton? A Yes, sir, a little acquainted.
- Q How long have you known her? A Well, I couldn't tell how long.
- Q Well, have you known her all her life? A About all her life.
- Q Do you know Lottie Robbins? A Yes, sir.
- Q How long have you known her? A I have known her about the same as I have known Charlotte.
- Q Do you know Rachel Woodall? A Yes, sir, I have known her about all her life.
- Q Do you know Emily Weaver? A Yes, sir.
- Q How long have you known her? A Ever since the war, and I got a little acquainted with her in time of the war, about the last of the war; about two years before the surrender.
- Q Are you related, kin, to Emily Crittenden? A Well, I guess I am, because the old folks always said that my father and her father was the same. Different mother.
- Q They always told you then, that you was a half-brother to Emily Crittenden? A Yes, sir.
- Q Is she commonly known as Emily Crittenden? A Yes, sir.
- Q Do you know Josh Robbins? A Yes, sir, I got acquainted with him in Polk County, Arkansas.
- Q When was that? A That was during the war, and then after the war he came on out to the Territory.
- Q Did you know him then in the Cherokee Nation after you came back to the Cherokee Nation? A Yes, sir.
- Q What time did you come back, as well as you remember? A Well it was near about two years I reckon, before I got back.
- Q Do you mean two years after the close of the war? A Yes, sir.
- Q Well, now, I will ask you if you know whether Emily Crittenden, or Emily Weaver, and Josh Robbins were living together as

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man and wife when you came back to the Cherokee Nation from Polk County, Arkansas? after the war?

A Yes, sir, they lived that way.

Q Where did they live? A They lived out south side of where Westville is now.

Q Is that in the Cherokee Nation? A Yes, sir.

Q What district is it in? A Goingsnake.

Q How long did they live together that way? A They lived together until he died.

Q Did they live in a house together, away from any one else with their children. A They lived with my Aunt.

Q Who was your aunt? A Liddy Quantin.

Q Did they live in the house with her, or did they have a house to themselves. A Well, as well as I recollect, they all stayed together, but I wasn't there all the time.

Q During this time, do you know, whether Charlotte Newton and Lottie Robbins were born? A Yes, sir.

Q Do you know whether Josh Robbins claimed them as his children or not? A No, sir, I don't. I never did hear him myself.

Q They have went by the name of Robbins, have they, ever since? A Yes, sir.

Q And they have lived here in the Cherokee Nation all the time? A Yes, sir.

Q You have lived here ever since? A Yes, sir, I have been in the Nation all the time.

Q Are you a Cherokee Indian yourself? A Yes, sir.

Q Where do you get your Cherokee blood, from your father?

A From my father and mother both.

Q And you say that they told you that your father was the father of Emily Crittenden? A Yes, sir.

BY MR. HASTINGS:

Q How far did you live from where Westville now is, when Emily Weaver and Josh Robbins stayed over there at Aunt Liddy Quantin's?

A About three miles.

Q Did you live that near all the time? A Yes, sir, and I was there a heap.

Q Who did you live with? A Old man Joel Kelly

Q He is not living now? A No, sir.

Q You don't know who is the father of Emily Weaver, she is older than you? A Yes, sir a right smart older than I am.

Q She was a slave before the war? A I don't know

Q You never heard that, now do you mean to tell the Commission that you never heard that?

A I never heard how it was, who she was a slave of.

Q Well, why did you say you never heard it?

A I did not understand the way it was asked.

Q And her mother was a slave, wasn't she? A Yes, sir

Q Now, you know that Emily Weaver and Charlotte Newton and Lottie Robbins have been trying ever since the war to be admitted by the Cherokee Council, and they have refused, haven't they. A I don't know whether they ~~mean~~ have been refused or not They have always claimed.

Q But you know they have never been recognized? A I don't know as they have been recognized.

Q Don't you know that they have not been recognized?

Q I couldn't say that I know they was not.

Q Why can't you say that? A Because I don't recollect, like a heap of people.

Q Then how can you recollect about Josh Robbins's citizenship when you never knew him but a few years after the war, when you have known this woman and these children ever since the war, why can't you tell on one side if you can on the other?

A (No response)

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- Q You don't know, do you? A I don't know positive that they were.
- Q You don't positively know that Josh Robbins was recognized do you, his name is not on any roll? A Yes, I know he was
- Q How do you know it? A Well, the people told it, and then his own father was.
- Q Now, you never saw his father did you? A Yes, I have seen his father.
- Q Now what roll was Josh Robbins on, and how do you know that he was ever recognized? A I don't know what roll he was on.
- Q How do you know that he was ever recognized? A Well, I know by his old grandmother and his father, I have heard him talk, and he claimed him.
- Q Now, when did you ever hear him claim ^{him} and where?
- A Well, at Quentin's.
- Q When? A I cannot tell you how long it has been.
- Q Ten years ago? A I don't know how long it has been.
- Q You don't know when you heard this talk, do you? A No, sir
- Q Were you ever a witness down at the Cherokee Councils for these people? A No, sir.
- Q You never went down there for them? A No, sir.
- Q You never appeared for them as a witness before? A No, sir
- Q You never saw this woman and the father of Rachel Woodall living together did you? A No, sir.
- Q Do you know who the reputed father of Rachel Woodall is?
- A No, sir.
- Q When did he die? A Well, I don't know when he died.
- Q Well, he did not die until a long time after Josh Robbins died did he? A No.
- Q Do you mean to say that the father of Rachel Woodall died after Josh Robbins died? A Yes, sir.
- Q Were Emily Weaver and Josh Robbins ever married?
- A No, not only under the old Cherokee law.
- Q You know they never were married, don't you?
- A Yes, I know they never were married.
- Q And you never did know of them living together as husband and wife, in a separate house, do you? A They lived together, I don't know if they lived in a separate house.
- Q They never lived in a separate house. They both stayed up at old Liddy Quentin's, didn't they? A Yes, sir

BY COMMISSION:

- Q Israel, who was said to be the father of Rachel Woodall?
- A I believe they called his name George Woodall.
- Q You think it was George Woodall? A Yes, sir, George.
- Q When did he die? A I cannot tell how long it has been.
- Q Well, fifteen years ago? A Been about nine or ten years ago, I reckon.
- Q Do you know whether or not he was a recognized Cherokee?
- A He claimed to be part Cherokee?
- Q Where did he live? A Why, when he died, I don't know where he lived, he had left there and come out in the Creek Nation.
- Q Where did he live when Rachel was born? A Part of the time in Polk County, and then he come out to the Cherokee Nation
- Q What district did he live in? A Goingsnake.
- Q Was that where Josh Robbins lived? A Yes, sir.
- Q Do you know whether or not this Woodall was a Cherokee, of your own knowledge? A I couldn't hardly say, but the people said that knew him better than I did, because I was just a kid like.
- Q Did they say he was a Cherokee? A Yes, sir
- Q Did this man Woodall ever marry any one else? A He was married afterward; after he came out in here I think to a Creek woman.
- Q When did you first know Emily Crittendon, or Emily Weaver?

Cherokee D-1220- Charlotte Downing- 13

- A First knew her in Polk County.
Q Polk County, Arkansas? A Yes, sir
Q After the war? A In time o of the war, before the war closed.
Q She never was legally married to any one was she?
A No, just under the old Cherokee laws, like they used to.
Q Do you know Bullette Weaver? A Yes, sir.
Q He is a son of Emily, is he? A Yes, sir.
Q These people have always been considered Freedmen by the Cherokee people haven't they. Colored people?
A Ever since the surrender, I suppose.

BY MR. HASTINGS:

- Q Did you ever know of Emily Weaver living with the father of Rachel Woodall as husband and wife? A No, I never knew it.
Q Did you say you knew Josh Robbins in Polk County Arkansas?
A Yes, sir.
Q And he came back here about two years after the war? A Yes, sir
Q You never heard of this woman living as husband and wife with Rachel Woodall's father, did you? A No, sir.

The attorney for the applicants asks that copy of the testimony this day taken in this case, be filed with and made a part of the record in the case of Lottie Robbins Cherokee D-2901 and Rachel Woodall, Cherokee D-2443

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Lucy M. Bowman, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she recorded the testimony and proceedings in the above case, and that the above and foregoing is a full, true and correct transcript of her stenographic notes therein.

Subscribed and sworn to before me
this 30 day of November, 1904.

Lucy M. Bowman

Charles H. Harrison
Notary Public

Cherokee M-348 et al.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 9, 1905.

SUPPLEMENTAL PROCEEDINGS HAD IN the matter of the application for the enrollment of EMILY WEAVER et al, as Cherokee citizens, consolidating the applications of

Emily Weaver, ----- M-348.
Thomas Kirk, ----- C D-1220.
Charlotte Downing, ----- C D 1220.
Peggie Whitmire et al, ----- C R-618.

APPEARANCES:

For applicants, R. H. Couch, Westville, I. T.
For the Cherokee Nation, James S. Davenport.

EMILY WEAVER, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Emily Weaver.
Q What is your age, do you know how old you are? A No sir I don't know my age, but I guess I am about 50.
Q You don't know your age? A No sir.
Q Where do you live? A I live in Goingsnake District.
Q What is your post office address? A Prector.
Q What is your mother's name? A Nellie Coleman.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A To Phillips.
Q Was Phillips a Cherokee Indian? A No sir, his wife was, you see I am thinking about his wife's estate her name was Sidney Phillips, she was a Crittenden when she was married.
Q What was your father's name? A His name was Lewis Crittenden.
Q Was he a Cherokee Indian? A Yes sir.
Q Where did he live? A In Goingsnake District and in Flint District.
Q In the Cherokee Nation? A Yes sir.
Q Were you a slave before the war? A Yes sir, he raised me, Phillips did.
Q Were they Cherokee citizens? A Yes sir.
Q Where were you born? A I was born in Flint District, in the Cherokee Nation.
Q How long did you live in the Cherokee Nation? A I lived in the nation until I was grown and they went out and when,-----
Q Do you know where you went when the war commenced? A Yes sir, we went to the Choctaw Nation.
Q How long did you stay over there? A I stayed there until peace was made, I don't know how long, we went at the commencement of the war we went down.

- Q These people took you out now at the commencement of the war?
A Yes sir, and when they come back I wasn't able to come back.
Q Then when did you come back to the Cherokee Nation? A I come back a year after peace was made.
Q Next year after peace was made? A Yes sir.
Q You can remember the civil war, can you? A Yes sir.
Q And you can remember the year peace was made? A Yes sir.
Q Do you know what year it was? No sir, I can't remember what year it was.
Q Whereabouts in the Choctaw Nation did you live? A On Red River.
Q Who did you come back to the Cherokee Nation with? A With Will and Lidda Quinton.
Q Where did they settle? A They settled on Thomas' place.
Q Have you lived in the Cherokee Nation continuously since you came back? A Yes sir.
Q Never lived anywhere else? A I have lived anywhere else, I was born and raised here and when I come back I lived here, when they took me out I was grown then.
Q You had some children when they took you out of here? A No sir.
Q Is Lewis Weaver your son? A Yes sir.
Q Mary Crittenden? A Yes sir.
Q Are they on the rolls that you know of? A They said they were on the rolls.
Q Is Tom Kird your son? A Yes sir.
Q How many other children have you? A I have another boy, Rant, he is the oldest child I have got.
Q Is Charlotte Newton your daughter? A Yes sir.
Q Who is her father? A George Robbins.
Q Who did she first marry? A She first married Ellis Whitmire, but they were not lawfully married, they lived together.
Q Who did she marry next? A Downing, Tom Downing.
Q She is the Charlotte Downing who is an applicant for enrollment in the Cherokee Nation? A Yes sir.
Q Is Lottie Robbins your daughter? A Yes sir.

BY THE COMMISSION:

- Q Has Charlotte Downing a child by Ellis Whitmire? A Yes sir.
Q Is that child living? A Yes sir.
Q Has she another child? A She has got another one by Bob Bushyhead.
Q Is Henry Bushyhead living? A Yes sir.
Q Are these children living with Charlotte now? A Yes sir.
Q Is Charlotte living? A Yes sir.

BY MR. DAVENPORT:

- Q Now Aunt Emily you say you were grown when the war broke out?
A Yes sir.
Q Where were you living when the war came on? A In the Choctaw Nation.
Q Your people had left the Cherokee Nation and gone to the Choctaw Nation before the war began? A Yes sir.
Q Now do you remember the name of what place you were living when you went to the Choctaw Nation? A No sir, they were not in any town.
Q How do you know you were in the Choctaw Nation? A They said we were right among the Choctaws.
Q You might have been in the Chickasaw Nation, mightn't you?
A No sir, it was the Choctaw.
Q Where were you from Braggs Depot or any of these places down there? A I don't remember anything about any towns.

- Q Where did you go to get your spoils? A We went to a town there, I forget the name.
- Q Who went down there with you? A I was took down there by Phillips people.
- Q Who were they? A He was a white man and his family were Cherokees.
- Q Who was his family? A Sidney Phillips was a Crittenden before she was married.
- Q You don't know what year you went to the Choctaw Nation? A No sir.
- Q Nor do you know what year you returned from the Choctaw Nation? A We returned from there the next year after peace was made.
- Q How do you know it was the next year after peace? A Why we just stayed there and come back here, old Aunt Lidda Quinton came back here and bought her place.
- Q Who was she? A She was a cousin of Sidney Crittenden, old Bill Crittenden's daughter.
- Q You have nothing by which to impress it upon your mind that you came back the next year after war, have you? A No sir, I haven't.
- Q You never made application before to be enrolled as a freedman did you? A Yes sir, they all told me I didn't have to make application, I would never need any, I was raised among the Cherokees and always remained here as a Cherokee.
- Q Do you know whether you are on any of the rolls of the Cherokee Nation? A I was put on the rolls, I don't know whether I am on or not.
- Q Did you at any time draw money when the Cherokees or freedmen were drawing? A No sir.
- Q Did you make application to the Kern-Clifton Commission in 1897 to be enrolled as a freedman? A No sir, I always tried to get on the Cherokee rolls.
- Q You always claimed you were a Cherokee by blood? A Yes sir.
- Q And tried to be enrolled as such? A Yes sir.

LEWIS WEAVER, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Lewis Weaver.
- Q How old are you Lewis? A Going on 50.
- Q Where do you live? A I live in Goingsnake District.
- Q Are you on the rolls of the Cherokee Nation as Cherokee freedmen? A Yes sir.
- Q You have taken your allotment as a Cherokee freedman? A Yes sir.
- Q What relation are you to Emily Weaver? A She is my mother.
- Q Do you remember when the civil war commenced? A Yes sir, I was quite small.
- Q Do you remember where you were when the war commenced? A No sir, I don't remember that.
- Q Do you remember what time you came back to the Cherokee Nation after the civil war closed? A As well as I can recollect we came back with old Aunt Lidda Quinton.
- Q You remember when peace was made, do you? A Yes sir, I believe I do, I don't know the year, but I remember the time.

- Q How long after peace was made until you came back to the Cherokee Nation? A We started back the next year after peace was made I believe as well as I can remember.
- Q Where did you go to? A We come from the Choctaw Nation.
- Q Where did you go to from the Choctaw Nation? A We come in Goingsnake District.
- Q Was that the next year after peace was made? A I believe it was, I aint certain.
- Q According to your best recollection was it? A I don't know, I believe it was, I couldn't positive say it was.
- Q Do you know who you came back with? A We come back with old Aunt Lidda Quinton.
- Q Do you remember where you settled when you came back? A Yes sir.
- Q You came back at the same time of your mother? A Yes sir.
- Q You all came back together? A Yes sir.
- Q You have been admitted as a Cherokee freedman? A Yes sir.
- Q Did you ever try to be enrolled as a Cherokee by blood? A Not that I know of.
- Q You were born before the war and was a great big boy when the war broke out, wasn't you? A That is what I don't know.
- Q You say you are 50 now, you were about 7 or 8 years old when the war broke out? A I don't know my age.
- Q Where were you when you first remember anything about being a war, in Texas or Choctaw Nation? A In the Choctaw Nation.
- Q Did you ever live in Texas during the war or after the war? A No sir.
- Q What point in the Choctaw Nation did you live? A Down on Red River.
- Q How far from Doaksville, do you know anything about that? A Yes sir I remember that place.
- Q Now you can't say what year you left that country and came back to the Cherokee Nation? A No sir.
- Q No nothing about it at all? A No sir, only that I came back with Aunt Lidda Quinton.
- Q Is she living or dead? A She is dead.
- Q Is there any other person living besides you and Aunt Emily? A None only Aunt Lidda Kelly.
- Q What point did you return to after the war? A Barron Fork.
- Q Near whose place? A Joe Starrs.
- Q Is he living? A No sir he is dead.
- Q Who is living over there that you came back to after the war that was living at that time? A I don't know any, I don't remember none.
- Q Weren't there any people living over there but Joe Starr when you came back? A I remember coming back to his place.
- Q How far from his place to some one elses? A I never seen any more places there where we lived there until we got out on the prairie.
- Q Who were living on the prairie? A Coon and Ned Foreman.
- Q Is any of them living? A Ned is.
- Q He knows when you came back? A I guess so.
- Q Have you had him as a witness in this case for your mother? A No sir.
- BY THE COMMISSION:
- Q You said you came back with Lidda Quinton? A Yes sir.
- Q Has she any children living? A Aunt Nellie Kelly.
- Q Is that her name now? A Yes sir.
- Q Is she a freedman? A No sir.

- Q She a Cherokee by blood? A Yes sir.
 Q How old is Nellie Kelly? A I couldn't tell you that.
 Q Is she older than you? A Yes sir.

EMILY WEAVER RECALLED:

BY THE COMMISSION:

- Q What are the names of Nellie Kelly's children that came back with you? A Mrs. Fulton, Tom Kelly, and Wyley Kelly, and Rosanna and Nancy John.
 Q Are any of those living now? A Yes sir, Tom Kelly and Rosanna and Jeff Vann's wife.
 Q They are living in the Cherokee Nation? A Yes sir.
 Q Now when you went down to the Choctaw Nation you were married, were you at that time? A No sir.
 Q Didn't you have any children? A Yes sir, I had my oldest one this boy Lewis and Rant and Mary, I just had three.
 Q Where was Thomas born? A In the Choctaw Nation.
 Q That was sometime during the war while you were going down there? A Yes sir.
 Q Do you remember when the Treaty of Fort Smith was? A No sir I don't remember.
 Q Don't remember a thing about that? A No sir.
 Q You have always claimed haven't you that you were a Cherokee by blood? A Yes sir.
 Q As a matter of fact your mother was a slave? A Yes sir.
 Q And your father and mother were never married? A No sir.
 Q And you lived with your mother? A Yes sir.
 Q Was your mother living when you went south to the Choctaw Nation? A Yes sir she was but she wasn't with us.
 Q What became of her? A She is dead.
 Q I am talking now about the beginning of the war? A I don't know where she was, she was in Texas somewhere, she departed with me.
 Q Sometime before the war? A Yes sir.
 Q And you were kept on the farm? A Yes sir.
 Q You say you belonged to Phillips? A Yes sir.
 Q Is he living? A No sir, he is dead.
 Q Any of his family living? A Yes sir, there is one girl living, Whitmire's wife.
 Q How old is she? A I don't know.
 Q Was she born before the war? A Yes sir.
 Q What is her husband's name? A Charley Whitmire.
 Q And she is living today? A Yes sir.
 Q Did you come back with Charley some time? A No sir I came back with old Aunt Lidda.
 Q Is Lottie Robbins your daughter? A Yes sir.
 Q Is she living? A Yes sir.
 Q She living with you? A Yes sir.
 Q Did you have any children when you went from the Cherokee Nation to the Choctaw Nation? A No sir I never had no children when my folks took me down there.
 Q Then how many children were born to you in the Choctaw Nation? A When we went from where we lived before the war I had the three oldest ones.
 Q What was their names? A Rant and Lewis and Mary, then Tom next.
 Q These three oldest were born before the war? A No sir, long time of the war these three oldest ones.
 Q At the beginning of the war how many children did you have?

- A Them three oldest ones at the beginning.
Q And after the war commenced and after you went down to the Choctaw Nation? A Tom was born.
Q Before you came back? A Yes sir.

This case will stand continued by mutual consent and agreement to June 22, 1905.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) George H. Lessley

Subscribed and sworn to before me this 1st day of July, 1905.

(SEAL)

(Signed) Myron White

Notary Public.

Maggie O. Kennedy, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie O. Kennedy

Subscribed and sworn to before me this the 6 day of July 1905.

Myron White
Notary Public.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JULY 20, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMILY WEAVER ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, R. H. Couch.

For the Cherokee Nation, W. W. Hastings.

THOMAS KELLEY, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Thomas Kelley.
- Q Where do you live? A In Cooweescoowee District.
- Q How old are you? A I am about 57 years old.
- Q Are you acquainted with Emily Weaver? A Yes sir.
- Q How long have you known her? A Since the war.
- Q Did you know her during the war? A Yes sir.
- Q Where was she during the war when you knew her? A In Polk County, Arkansas.
- Q Was she a slave? A Yes sir.
- Q To whom did she belong? A To old Lige Phillips.
- Q Were they Cherokee Indians? A Yes sir, his wife was.
- Q What time did she leave Polk County, Arkansas? A It was in the fall of '95.
- Q Of '95? A No sir, '65 just a year after the war closed, it closed in '65 we left there that fall.
- Q You are sure you left Polk County, Arkansas, in 1865? A Yes sir.
- Q Where did you start Mr. Kelley? A We started to the Cherokee Nation.
- Q What time did you get to the Cherokee Nation? A It was in February of '66 I guess.
- Q Emily Weaver came with you? A Yes sir, her and her children.
- Q Where did you settle? A We settled in Goingsnake District on the Arkansas line.
- Q How many children did she have at that time? A Now let me see, I will count them up, I guess she had 6 children to the best of my memory.
- Q What are their names? A There was Rose, Lewis, Tom, Charlotte, Rachel and Mary I guess were the children.
- Q Are you sure she had that many children at that time? A Now let me study awhile about it I won't be sure, now she might not have had but five, I won't be positive.
- Q Were you well acquainted with her then? A Yes, raised up right by me with them all the time.
- Q What time of the year was it when you got into the Cherokee Nation? A We crossed the Arkansas River just above Fort Smith in February, I couldn't state the day exactly, I would not be positive about that.
- Q It was in February? A Yes sir.
- Q 1866? A Yes sir, cause we got clear up in Goingsnake District in time to plant a corn crop that year.
- Q Where did you make your crop that year? A On the old Woodall farm right near where Westville is now on Valley Creek.

- Q Where did this old lady Emily Weaver live at that time? A On the old Beatty prairie with my grand-mother.
- Q Who was your grand-mother? A Lydia Quinton, one of the boys, Lewis, worked with me that year.
- Q You say you got here in time to make a crop, that you come back in time to plant corn? A Yes sir.
- Q Did you sow oats? A Yes sir.
- Q What time do you usually sow oats in that country? A In the spring.

BY MR. HASTINGS:

- Q Where were you born? A I was born in Sebastin County, Arkansas.
- Q Had you ever lived in the Cherokee Nation before the war? A No sir I was born in Arkansas, my father left here in an early day and went to Arkansas.
- Q What county? A Sebastin county.
- Q And then you went from there to Polk County? A Yes sir.
- Q Were you related in any way to Elijah Phillips? A His wife was related to my mother.
- Q What relation was Sidney Phillips to your mother? A I think they were cousins.
- Q When did you go to Polk County, Arkansas? A I couldn't state, we were there when the war come up.
- Q About how long before the war come up, ever since you can remember? A Yes sir.
- Q Were Elijah and Sidney Phillips there ever since you can remember? A No sir.
- Q Didn't they come there in 1864? A I couldn't answer that.
- Q Well it was 7 or 8 years before the war? A I couldn't answer that question.
- Q You know they were living there several years before the war? A Yes sir.
- Q Did they own a farm there? A I guess they did, they were on a farm.
- Q And were living there before the war came up? A Yes sir, to the best of my memory. I couldn't say positive, I remember when we all fixed to come to the Cherokee Nation, well I don't remember about the Phillips family the Crittendens were related to us.
- Q Do you know George Crittenden at Westville? A Yes sir.
- Q Does he know when your people came back? A I guess he does, he didn't come with us.
- Q Did any other family come with you? A There was I reckon grand-mother, the old lady Quinton, and my father and mother and our families is the outfit that come along.
- Q Where did you come from? A From Polk, County, Arkansas.
- Q Then you started from where you had been living before the war? A Yes sir.
- Q Did they sell their place down there? A Yes sir.
- Q Did Elijah and Sidney Phillips sell their place down there? A I guess they did.
- Q Did they ever go back there? A No sir I don't think they have.
- Q You came in wagons did you? A Yes sir.
- Q How on what place near Westville did Lydia Quinton move to after the war? A She stopped at Joe Starr's.
- Q How long did she live at Joe's? A Not long, then she come up on the Alberty prairie and bought a place.
- Q Where is that from where Westville now is? A Right south of Westville.
- Q How far? A Only a mile or so, she bought it from Sarah Peters.
- Q Who owns that place today? A I don't know.

- Q Who owned it the last time you saw it? A I think this Mose Phillips.
- Q In what year were you born? A I couldn't state to my age exactly. My family record got burned up when my house burnt, but I must be 56 or 57.
- Q In what year were you married? A I was married in '65 or '68.
- Q You don't remember? A It is '67 or '68, I think it was the fall of '67 I was married. No sir I was married in the fall of '66.
- Q Then you were married in the fall after you came up here? A I was married in Greenwood, Sebastian County, Arkansas, in the fall of '66 that I was married?
- Q In the fall of '66? A Yes sir.
- Q Then you were married the fall before you come? A Yes sir.
- Q Then you come here the next spring? A We were on our road then, we stopped in Sculleyville, my father and me, it was before these folks come. We come on to this country and went back and got grand-mother and brought her on in the fall of '65 and come on that fall.
- Q I thought you said you were married in the fall of 1866? A We were on ~~our~~ our road, we were then on the Arkansas River when I was married and come on here.
- Q Now had you been to the Cherokee nation before you married, or were you on your road here? A We were on our road here.
- Q That was your first trip? A No sir we had been here before.
- Q But Emily Weaver was not with you? A No sir.
- Q What time in the fall of 1866 were you married? A I couldn't state the date.
- Q Don't you know the month? A It must have been along about the first of October or September.
- Q You are not positive about it? A No sir.
- Q But you know it was in 1866? A Yes sir.
- Q And you know at that time that Emily Weaver had never been out here? A No sir.
- Q And you come then the next spring with her? A Yes sir, in February.
- Q You don't know what time in February it was? A I couldn't state the day exactly, I know we were on the road and crossed the river in the Territory.
- Q You landed here then in the spring of 1867? A Yes sir.
- Q That was in the spring after you married in the fall of 1866?
- A Yes sir.
- Q How long did you stop down there in Sebastian County when you were married? A We stayed I reckon about a couple of weeks.
- Q Was Emily Weaver with you down there when you married? A Yes sir.
- Q Did you get a license down there when you married? A Yes sir, I don't know for I don't believe just after the war whether there was such a thing as license down there or not.
- Q Can you read and write? A No sir I can't sign my name.
- Q Your memory is not very good these days? A It is just like I tell you, just when the war closed.
- Q Then you may be mistaken a year or two about it? A It might be such a thing, it is just like I tell you it is the best of my memory about these circumstances.
- Q You are going by the time the war closed? A Yes sir.
- Q You came here the next spring after you were married in the fall of 1866? A Yes sir.

- Q You know she hadn't been here before that time? A No sir.
- Q Where was Jack Alberty living when you folks come up there? A I think Jack had come on to the Territory ahead of us but I don't know whether Jack had left and was living here when we started, we were all fixed and all the Cherokees to come back to the Territory.
- Q You don't remember how many children Emily had? A It was either 5 or 6 I couldn't state positively how many she did have.
- Q When was your oldest child born? A I couldn't state exactly without the record.
- Q Is your oldest child living? A Catherine is living.
- Q What is her present name? A Catherine Murphy, she is enrolled all right.
- Q Where was she born? A In Cooweescoowas District.
- Q What time in the year was she born? A I couldn't say that.
- Q Then your memory is not very good about dates? A It isn't, no sir, it is bad.
- Q You don't know what year then she was born? A No sir, I couldn't state.
- Q Then you might be mistaken even in the year when you come out here? A I might be, just as I told you I was just judging by when the war closed.
- Q You swore you were married in the fall of 1866? A Yes sir.
- Q Now then you didn't come here until the next spring, that would be the spring of 1867? A Yes sir.
- Q Then you were mistaken when you said you came here with Emily Weaver in the spring of 1866, it was in the spring of 1867 wasn't it? A Yes sir.
- Q You might even be mistaken about the year you were married, it might have been in the year of 1868? A Yes sir.
- Q Then it might have been as late as the spring of 1868 when you come? A I don't think it was that late, I can't fix it as that late.
- Q But it couldn't be earlier than the spring of 1867 now? A According to the date of my marriage.
- Q And you want to correct your former testimony to that effect?
- A I want it as near right as I can get it. It isn't anything to me only these people got me here and I want to tell it right as I can.
- Q You don't know how many years they lived in Polk County, Arkansas?
- A No sir.
- Q But you know Elijah Phillips and his wife Sidney owned a farm down there? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

- Q Who did you say Emily Weaver belonged to? A Phillips.
- Q Which Phillips? A Lige Phillips.
- Q When was the first time you ever got acquainted with Emily Weaver? A Along before the war, I just couldn't say what time.
- Q You know it was sometime then before the close of the war? A Yes sir.
- Q And during all the time you knew her she was living in Arkansas with Lige Phillips? A Yes sir until they come here.
- Q Was Lige Phillips a recognized Cherokee? A His wife was, he was a non-citizen.
- Q Cherokee citizen at that time? A Yes sir recognized as one when we come here.
- Q Did Lige Phillips have a place in the Cherokee nation before the war? A I couldn't say.
- Q Now the only property that you knew he had was in Arkansas? A Yes sir, I never had been to the Territory before the war.

- Q Do you know Tom Kirk? A Yes sir.
- Q Where was he living? A With the old man's family, he was a son fo Emily Weaver.
- Q Did she have any more brothers and sisters than Thomas? A He aint her brother.
- Q Where was Thomas born do you know? A He was born in Arkansas I think. I know he was a boy when I first remember him.
- Q When was the first time you ever came to the Cherokee Nation and who was with you the first time you come? A The first time I come was me, father and my grand-mother.
- Q There was just three of you? A It seems to me ther ewas some others, there was quite a bunch of us cherokees came up here to locate and look around.
- Q How long did you stay at that time? A Just about a week.
- Q Then you went back to Arkansas? A Yes sir.
- Q How long did you stay then? A I couldn't say.
- Q About how long, your best judgment? A Probably a month.
- Q Then did you start back to the Cherokee Nation? A Yes sir.
- Q Wasit at that time Emily Weaver come with you? A She didn't start then at that time, we come on up to Sculleyville, County and my father went back and got my grand-mother and these slaves.
- Q On the ~~next~~ third trip Emily Weaver was with you? A Yes sir.
- Q Now were you married at that time? A I think I was.
- Q Are you sure about that? A I think me and my ~~woman~~ woman got married on the first trip we moved up to Sculleyville County.
- Q On your first trip or on your first return? A No not the first trip, it was the second trip.
- Q The third trip you came back with Emily Weaver and these other colored people? A Yes sir.
- Q Now how lojg do you think you had been married before you came along with Emily weaver? A I was married in the fall, I think to the best of my judgment, we started on in february following is the best I can remember.
- Q Do you remember the treaty of Fort Smith? A No sir, I don't.
- Q Have you ever heard about it? A Yes sir I have heard about it, was tha t the treaty of '66?
- Q Did you hear of the treaty of Fort Smith spoken of at that time?
- A I don't remember whether I heard of it or not.
- Q Do you remember of hearing it spoken of in Arka nsas or in the Cherokee nation? A It seems like to me it was after we came, I would not be positive about that. A I know I heard the treaty spoke of but I couldn't say just when it was.
- Q Now I want you to tell me where you heard this treaty spoken of, was it in Arkansas or in the Cherokee Nation? A Dog if I can remember now about that, I would not be positive whether it was after or before we come here.
- Q How soon after you came to the Cherokee Nation that your oldest child was born? A My oldest child wasn't born in the Cherokee Nation.
- Q Where was your child born? A My woman went back to her sister in Arkansas. We come up in the spring and my wife went back to her sister in the fall and the child was born along in the winter like.
- Q Is that child living? A Yes sir.
- Q What is the name of that child? A Catherine Murphy now.
- Q That was the fall after Emily Weaver came here to the Cherokee Nation? A Yes sir I guess it must have been.
- Q Emily weaver came here the spring of the year and your child was born in the fall of the same year? A I think it was to the best of my knowledge.

BY MR. HASTINGS:

- Q Was your wife with you when you applied to be enrolled yourself at Vinita on September 21, 1900? A No sir, she was not with me.
- Q Had you talked to her about your marriage so that you refreshed your memory about it? A I guess I had.
- Q You stated at that time in answer to this question, "How long have you lived in the Cherokee Nation," A "Ever since 1868," is that correct? A Well now I don't know, it seems to me like we started in the fall after the war closed, that is my best memory about it. We come into the Choctaw Nation and then the next spring.
- Q Now the judgment of the Commission after you gave your testimony on September 21, 1900, recites the fact, "His wife was married to him in 1868," was that what you told the Commission at that time? A Yes sir, I guess it was.
- Q Wasn't your memory fresher then having talked it over with your wife when you married? A It looks reasonable/
- Q You haven't had occasion to talk this question over as to when you and your wife married recently? A No sir never thought anything about it.
- Q But you did have occasion to talk it over with her before you went to Vinita? A Yes sir had to then.
- Q Don't you think that this testimony that you gave under date of September 21, 1900, was more nearly correct by reason that you talked it over with your wife? A Yes sir.

MR. HASTINGS:

I desire to have introduced in this case the testimony of the witness, Thomas Kelley, taken before the commission at Vinita, I. T., on September 21, 1900, the same ~~being~~ being found in Cherokee straight case 3167, for the purpose of showing when the witness testified when he came back to the Cherokee Nation after the war and also for the purpose of showing when he was married to his wife, as the witness now states that his memory was fresher at that time having talked it over with his wife.

MR. COUCH:

No objection.

ON BEHALF OF THE COMMISSIONER:

The applicants offer in evidence the supplemental testimony of Thomas Kelley taken October 20, 1902, at Muskogee, in the case of Thomas J. Kelley for himself and his wife and children, Cherokee straight case No. 3167.

MR. HASTINGS:"

No objection.

BY MR. COUCH:

- Q Mr. Kelley how old did you say you were? A I couldn't state my age correctly. I must be about 57 years old the best I could get at it.
- Q You say that you can't read nor write? A No sir, I don't know a letter.
- Q You remember very distinctly when the civil war closed? A Yes sir.
- Q About how old were you at that time? A I was a young man.
- Q Now you say you were acquainted with Emily Weaver during the war? A Yes sir.
- Q How many children did she have? A I couldn't say.
- Q What was her oldest child's name? A We called him Rant Crittenden.

- Q Do you know who his father was? A Said to be old Mese Crittenden.
- Q Who was her next oldest child? A I don't know whether it was Mary or Lewis, one of them two.
- Q You knew them two down there? A Yes sir.
- Q Now do you know who the next one was? A Seems to me like they called her Lottie.
- Q Lottie or Tom? A Tim, that is the one.
- Q How large was Tom? A Just big enough to stay on a horse and ride.
- Q Do you remember exactly the time you left Polk County, Arkansas?
- A I couldn't state.
- Q What time of the year was it? A It was in the fall of the year.
- Q Was that the same year peace was made? A That is the best of my judgment.
- Q Who left there with you? A Just my father and our family, brother-in-law of course, and one of my oldest brothers that was married.
- Q When you left there where did you go to? A Went to Souleleyville County, Choctaw Nation, and then we went back and got grand-mother and the slaves.
- Q How long did you stay over there in the Choctaw Nation before you went back to Polk County? A We went there in the fall and the next fall we started back with the whole outfit to the Cherokee Nation.
- Q Now you went over there in the fall of 1865 in the Choctaw Nation?
- A Yes sir.
- Q Now when did you go back after Emily Weaver? A The next fall.
- Q How did you happen to stop over there in the Choctaw Nation?
- A Our stock got poor and we just stopped for the winter and then went back after grand-mother and these slaves.
- Q After you went back after them you came right on to the Cherokee Nation? A Yes sir.
- Q Now which trip was it you married? A The last trip we made up here.
- Q It was after you came over in the Choctaw Nation and went back to Polk County, Arkansas? A Yes sir.
- Q Now it was the next fall after you first left Polk County, Arkansas? A Yes sir I think it was.
- Q How did you make that trip from the Choctaw Nation to the Cherokee Nation? A We come right up to Fort Smith just before we got to Fort Smith we turned west and crossed the river up the river from Fort Smith just 12 miles from where we made the little crop, over into the Cherokee nation.
- Q That was the fall that you were married was it? A It was along in the spring after I was married in the fall.
- Q What kind of teams did you have? A We had ox teams mostly I believe, one or two mules.
- Q Did you bring any stock with you? A Yes sir, hogs, cattle, and a few sheep.
- Q What time of the year as well as you remember that you left the Choctaw Nation? A I think right about the first days of February.
- Q That must have been now in the year 1867? A It might have been right along there.
- Q Do you remember what kind of weather it was? A It was rainy, wet, bad weather, I know we were water bound a whole lot.
- Q Had the grass put out any? A No sir.
- Q Trees hadn't leaved out? A No sir, at the time we got here the grass had begun to spring up.
- Q Did you lay over on that trip any? A Yes sir.
- Q Where was that? A Well the laying over, down here just the other side of Fort Smith we had two teams stolen, we stayed there about a week. Then we got across the river on Lee's Creek we were water bound there a week or two. I couldn't say anything about the month or time we were on the road.

- Q Were you driving your hogs? A Yes sir.
Q Did you have any sheep? A Yes sir I think grand-mother had a bunch of sheep.
Q You think you were detained on Lee's Creek two or three weeks? A Must have been a week anyhow.
Q Did you stop over any other time before you got up to Goingsnake District? A Yes sir.
Q How long were you making that trip? A I couldn't state.
Q About how long? A It must have been three weeks or more.

BY MR. HASTINGS:

- Q You mean you were that long in making the entire trip? A Yes sir
Q How far is Westville from Fort Smith? A 60 or 65 miles.
Q Fort Smith is right on the border of the line between the Cherokee and Choctaw nations? A Yes sir.
Q Was that the Cherokee nation then, Westville the point to which you went, or the neighborhood to which you went, was some 60 or 65 miles north of the Cherokee southern boundary line, now how long did it take you to go that distance? A It must have been some 3 or 4 weeks.
Q That was on the whole trip now I mean in the Cherokee Nation? A I couldn't say positive.
Q You say when you got up there the grass was coming out and the leaves were putting out? A Beginning to put out.
Q Do you think that was as late as the first of April? A It was in March for we sowed a few oats and put out a corn crop.
Q That was sometime in March, it might have been as late as the first of April? A It might have been but I think it was in March.
Q Was Tom Kirk himself a slave in Arkansas? A He was born there.
Q Do you know whether he was regarded as a slave himself or not? A I don't know whether he was born before the war or during the war.
Q Do you know whether Emily was a slave or not? A Yes sir.
Q Slave of Phillips? A Yes sir.
Q And owned a farm in Arkansas when the war came up? A Yes sir.

BY MR. COUCH:

- Q What kind of a farm did Phillips own down there? A A bottom farm.
Q Do you know whether he owned it or just rented it? A He didn't have it rented, the old man was in possession of that farm and sold it out, I know that to be a fact.

BY MR. HASTINGS:

- Q Who did he sell it to? A To a fellow by the name of Hughes.

ON BEHALF OF THE COMMISSIONER:

- Q Do you know what year he sold the farm? A No sir.
Q Did he sell it before he came to the nation? A Just a short time I couldn't say.
Q You are positive of that? A Yes sir.
Q Is Phillips living? A No sir.
Q His wife living? A No sir.
Q Any of his children living do you know? A I think there are two of them living.

BY MR. HASTINGS:

- Q What are their names? A Charley Whitmire's wife and Frank Phillips is the other one.

ON BEHALF OF THE COMMISSIONER:

- Q Were either of those born before they came to the nation? A Yes sir.
- Q How old are they, about your age? A No sir, not quite as old as I am.
- Q And they came along with you and Emily Weaver? A No sir. I have been trying to study up when they come, whether it was before or after, I don't know. We all came I think about in the same year but we didn't come together, I don't know whether they were ahead of us or behind us.
- Q Did you own any property yourself in Arkansas? A No sir.
- Q Did your mother? A They never had any deeded land at all, they owned a place there, just settled up.
- Q Did they settle it? A Yes sir, my father sold it.
- Q The same year you came here? A I don't remember whether it was the same year or before.
- Q Was that deed recorded? A He had no deed at all.
- Q Didn't he deed it to the other man? A No sir, just give him a Quit Claim title.

WITNESS EXCUSED.

ANTHONY CRITTENDEN, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Anthony Crittenden.
- Q What is your age? A I don't know my age.
- Q About how old are you? A I must be about 55 or 56.
- Q Where do you live? A In Canadian District.
- Q Cherokee Nation? A Yes sir.
- Q Are you acquainted with Emily Weaver? A Yes sir I ought to be.
- Q What relation are you to Emily Weaver? A She is my mother.
- Q How large was you when the war closed? A I don't know, I can recollect there being a war going on, that is all I can recollect about the war.
- Q You were a pretty good size boy were you? A Yes sir.
- Q Where did you live when the war closed? A I lived in Polk county, Arkansas.
- Q How long after the war closed until you left there? A It was in 1865 when I left there.
- Q How do you know it was 1865 Rant?

ON BEHALF OF THE COMMISSIONER:

- Q Have you ever been known by the name of Rant? A Yes sir that is the nick name they give me.

BY MR. COUCH:

- Q How do you know that it was in 1865 that you left there? A Old Aunt Lydia told me it was in 1865.
- Q Who was that, Aunt Lydia Quinton? A Yes sir.
- Q When did you talk with her about the time you left, after you came back to the Cherokee Nation? A Yes sir I lived with her until I was grown.
- Q When you left Polk County where did you go to? A Went to the Choctaw Nation.
- Q How long did you remain in the Choctaw Nation? A We left there in 1866.
- Q What time of the year? A It was in the fall like, I don't remember what time in 1866.

- Q How long now did you stay over there in the Choctaw Nation? A I don't recollect how long we were there.
- Q About how long was it? A We started from the Choctaw Nation but didn't travel more than a day before we lost the horses.
- Q Had you crossed the Arkansas River when you lost the horses?
- A No sir.
- Q You stayed there awhile then before you crossed? A Yes sir we couldn't find them, we rigged up a team and come on.
- Q What time of the year was it? A It was in the winter as well as I can recollect.
- Q Was it cold? A Yes sir, pretty cold.
- Q Do you remember whether there was any snow on the ground after you left the Choctaw Nation or not? A No sir.
- Q Well how long were you making that trip now from the Choctaw Nation before you stopped in Goingsnake district in the Cherokee Nation? A It was in 1867 when we got to where we were going.
- Q How do you know it was 1867? A The old lady told me it was.
- Q She told you it was in 1867? A Yes sir.
- Q What time of the year in 1867 was it, in the winter? A I don't know what time it was, ~~I know~~ think it was along in the spring.
- Q In the early spring was it? A Yes sir, we got here in time to put in oats.
- Q Had the trees put out when you got up there? A No sir the trees hadn't put out as well as I can recollect.
- Q Do you think it was as early as January when you started across the Arkansas River in 1867? A It must have been, we drove hogs, and you know how hogs travel.
- Q Were you detained on the road from any cause? A High water sometimes.
- Q Where was that high water? A On Lee's Creek.
- Q Is that in the Cherokee Nation? A Yes sir.
- Q How long were you detained there by high water? A Not more than two or three days at a time, maybe a day and maybe sometimes two days.
- Q Now according to your best judgment how long were you making that trip from the Choctaw Nation? A I couldn't hardly tell.
- Q Were you as much as a month and a half? A It might have been a month and half, I couldn't say for certain, it might have been a little longer, I couldn't say.
- Q Were you a slave? A Yes sir I guess I was.
- Q Who did you belong to? A Old man Phillips. Old man Lige Phillips.
- Q What was his wife's name? A Sidney Phillips.
- Q They were Cherokee citizens? A She was a Cherokee, he was a white man.

BY MR. HASTINGS:

- Q Where were you born? A Now you are too hard for me, I don't--
- Q Where were you told you were born? A I never did hear them say where I was born.
- Q You never heard them say where you were born? A No sir.
- Q Were you born in Polk County, Arkansas? A I don't know whether I was or not.
- Q When you could first remember you were living there? A Yes sir.
- Q And you are now about 55 or 56? A Yes sir.
- Q Then you were born along in 1849 or '50? A Yes sir I might have been born in Polk County, I couldn't say where it was.
- Q Is it your understanding you were born there? A I guess I was, I couldn't say where I was born.
- Q Then your mother was living there with Elijah Phillips when you were born? A Yes sir.
- Q And she never come to the Cherokee Nation until after the war?
- A No sir.

- Q Did Elijah Phillips own a farm there? A Yes sir.
- Q And he was living on it when the war commenced and had been ever since you could remember? A Yes sir I guess he had, he was living on it when I could recollect.
- Q Now for the purpose of testing your memory, when were you married? A It has been about 20 years ago.
- Q Do you know what year? A No sir I couldn't, I aint got no education.
- Q Can you read and write? A No sir.
- Q You don't know the years then? A No sir.
- Q Then you really don't know what year you come up here? A No sir.
- Q You don't know what month? A No sir.
- Q You know it was in the spring of the year? A Yes sir.
- Q Now don't you know that Lee's Creek is just a small spring branch and runs down in any two days? A You cross it I don't know how many times.
- Q I aint asking about how many times you cross it, I am talking about its size? A It is just a small creek.
- Q It is just a spring branch? A I never was at the head of it.
- Q It is just a small stream? A It isn't a big stream.
- Q Is there a place along down there that you couldn't run and jump across it? A I can find places that I couldn't jump it.
- Q How wide is it down there? A I never measured it to see how wide it is.
- Q Aint you got any judgment about it, you are under oath? A I know that I can't jump it.
- Q If you can't jump it you can estimate it? A I don't know exactly how wide it is.
- Q Estimate it? A It must have been about 6 or 7 feet, maybe 8 or 9.
- Q Now that is the only creek that detained you? A Yes sir it was, but there were some fords that were deep.
- Q How far is it from the neighborhood of Westville which you came to, to the south boundary of the Cherokee nation, down to the Arkansas River, about 50 or 60 miles? A I don't know, I expect it is.
- Q How long did it take you to come that 50 or 60 miles, a week?
- A It might have been, it might have taken us a week and it might have taken us 10 days, hogs travel slow.
- Q Is that your best judgment? A Yes sir.
- Q Week or 10 days? A Yes sir.
- Q And you don't know exactly what month you landed up there, it might have been March? A I think it was in February when we come there.
- Q You don't know about that? A No sir.
- Q What year is this? A I don't know.
- Q What year was the strip pay,ent? A I don't know that either.
- Q Do you know the year any one of your children were born? A No only from their age I have got them set down.
- Q Now you claim your citizenship by virtue of your father being a Cherokee, didn't you? A Yes sir.
- Q You didn't claim your citizenship through your mother? A Maybe I didn't.
- Q You claimed as a Cherokee didn't you? A Yes sir I did.
- Q Who is your father? A Old Mose Crittenden.
- Q He was a Cherokee? A Yes sir.
- Q And you claimed through him? A I put it in that way.
- Q And you put in that your mother was a white woman? A No sir.
- Q What did you put in that your mother was? A I don't recollect putting her in at all.

ON BEHALF OF THE COMMISSIONER:

- Q Did you come to the Cherokee Nation along with your mother?
A Yes sir.
Q Did you come along with the witness that just testified, Thomas Kelley? A Yes sir, me, old man Kelley, and Tom came and old Aunt Lydia Quinton all came along together, we all came here together.
Q How old were you at the time you started to the Cherokee Nation?
A I don't ~~think~~ have no idea, I guess I must have been 12 or 15 years old.
Q Just between a boy and a man? A Yes sir.
Q Now you don't remember ever living in the Cherokee Nation before that do you? A No sir.
Q The time you first came here so far as you know, was that time? A Yes sir.
Q Have you lived here ever since? A Yes sir, I lived 6 years on Grand River, and then I moved back to Goingsnake and lived there two years, and then I have been down here in Canadian District.

This case was here continued by consent and agreement until July 27, 1905, at one o'clock P. M.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 24th day of July, 1905,

Myron White
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emily Weaver, et al., as citizens of the Cherokee Nation, consolidating the applications of:

Emily Weaver, et al.,
Thomas Kirk,
Charlotte Newton,
Peggie Whitmire, et al.

Memoranda 348
Cherokee D 963
Cherokee D 1220
Cherokee R 618.

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D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee citizens were made to the Commission to the Five Civilized Tribes by Emily Weaver for herself and minor child, Lottie Robbins; by Susanna Kirk for, among others, her husband, Thomas Kirk, the others included in said application having been heretofore disposed of, their rights to enrollment as Cherokee citizens will not be considered in this decision; and by Charlotte Downing for herself and illegitimate minor children, Peggie Whitmire and Henry Bushyhead. Subsequent to filing her application herein the applicant, Charlotte Downing, was, on December 7, 1901, married to one John Newton, and she will now be listed for enrollment as Charlotte Newton. Copies of the testimony taken on July 19, 1900, at Westville, Indian Territory, in re application for the enrollment of Lewis Weaver, et al., as Cherokee Freedmen, case No. 1227, and on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in re application of Thomas Kelly, et al., for enrollment as Cherokee citizens, case No. 3167, are filed herewith and made a part of the record herein.

THE RECORD FURTHER SHOWS: That, under date of October 8, 1901, the Commission to the Five Civilized Tribes rendered its

decision in certain Cherokee memorandum cases, among others that of Emily Weaver, et al., Memoranda case No. 348, refusing, under the act of May 31, 1900 (31 Stat., 221), to assume jurisdiction of the application for the enrollment of Emily Weaver and her minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation, and that said decision was, on January 3, 1902 (Departmental letter I.T.D. 5698-01), affirmed by the Department. And that subsequent thereto the said Emily Weaver and Lottie Robbins were identified on the Cherokee Census roll of 1896, and upon request of the Commission, the record in this case (Memoranda 348) was, on August 2, 1902 (Departmental letter I.T.D. 4641-1902), re-manded by the Department "in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary."

THE RECORD FURTHER SHOWS: That all the applicants herein, in their original applications for enrollment applied as Cherokees by blood. In Departmental letter of November 20, 1903 (I.T.D. 3484-02), it was held that the said Emily Weaver, though of one-half Cherokee blood, could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. This is considered authority for classifying as a Cherokee freedman, not only Emily Weaver, but also the applicant, Thomas Kirk, son of the said Emily Weaver, who, the evidence shows, was born about the year 1860. Said Departmental letter further rules that an illegitimate child of Emily Weaver supposed to have been born subsequent to the close of the rebellion and prior to the making of the 1880 roll, although of three-fourths Cherokee blood, identified on the Cherokee Census roll of 1896 as a Cherokee by blood, and whose alleged father is identified on the Authenticated Cherokee tribal roll of 1880 as a native Cherokee, was "not entitled to enrollment as a Cherokee by blood" and "took the status of her mother." This is considered authority for classifying as Cherokee freedmen the applicants, Charlotte Newton and Lottie Robbins.

It is not intended in this decision to consider or adjudicate any rights to Cherokee citizenship the applicants Thomas Kirk and Charlotte Newton, formerly Downing, may have acquired by virtue of their marriage to duly recognized citizens by blood of the Cherokee nation, but only such rights to enrollment as the applicants herein possess as Cherokee freedmen, or Cherokees by blood.

Under the evidence in this case, and after an examination of the records in Cherokee Freedmen cases Nos. 1227 and 1259, and Cherokee cases Nos. 351 and 356, and the Cherokee tribal rolls of 1880 and 1896, it is respectfully submitted that the attached diagram, relative to material facts in this consolidated case, is approximately correct.

THE EVIDENCE IN THIS CASE SHOWS:

- (1) That the applicants, Emily Weaver and Thomas Kirk, are mother and son and were the slaves of a Cherokee citizen at the commencement of the Rebellion; that during said rebellion they were living outside the limits of the Cherokee Nation, but later returned thereto and established a residence therein, and have since continuously resided in said Nation, and are identified on the Cherokee Census roll of 1896 as Cherokees by blood.
- (2) That the applicants Charlotte Newton and Lottie Robbins are illegitimate children of the said Emily Weaver and one Josh Robbins, deceased, who was a Cherokee by blood, were born subsequent to the close of the rebellion and prior to the year 1880, have continuously lived in the Cherokee Nation since birth, and are identified on the Cherokee Census roll of 1896 as Cherokees by blood; that the minor applicants, Peggie Whitmire and Henry Bushyhead, are illegitimate children of the applicant Charlotte Newton, were born since 1890, have continuously lived in the Cherokee Nation since birth, and the former is identified on the Cherokee Census roll of 1896 as a Cherokee by blood, and the latter by a birth affidavit filed herewith and made a part of the record herein. (It is asserted that the minor applicants Peggie Whitmire and Henry Bushyhead, are children of Ellis Whitmire, deceased, and Bob Bushyhead, who, it is alleged, are Cherokees by blood).
- (3) That none of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1880, and possess no rights to enrollment as Cherokee freedmen or as Cherokees by blood, other than as above indicated.

In view of the foregoing it is considered that in order to properly adjudicate said applicants' rights to enrollment as Cherokee citizens, on September 1, 1902, the only questions to be determined are:

Did Emily Weaver and Thomas Kirk return to the Cherokee Nation, after the rebellion, and establish a residence therein within the time specified in the Whitmire decree? and

Are the minor applicants, Peggie Whitmire and Henry Bushyhead, the children of fathers who were duly recognized citizens of the Cherokee Nation?

EMILY WEAVER, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified, in part, as follows: I am about 60 years old, my post-office is Westville, I was born and raised in the Cherokee Nation, have always made my home here, and have never lived in any other place. I was an applicant for enrollment as a Cherokee citizen in 1896, but was denied. (The records of this office fail to show that this person was an applicant before the Dawes Commission, for citizenship in 1896).

CHARLOTTE NEWTON, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified as follows: I am about 30 years old. My post-office is Westville, Indian Territory, and I am the daughter of Emily Weaver and Josh Robbins, deceased, who was a Cherokee by blood. I have two children, Peggie Whitmire and Henry Bushyhead, aged six and three years. Ellis Whitmire and Bob Bushyhead, a Cherokee by blood, are the fathers of my two children. I was not married to either of these men, and never lived with Ellis Whitmire, but did live with Bob Bushyhead about two months "when he went away and left me."

CHARLOTTE NEWTON, applicant, appeared before the Commission on October 18, 1902, at Tahlequah, Indian Territory, and further testified as follows: I have two illegitimate children, Peggie Whitmire and Henry Bushyhead. Ellis Whitmire, who died about five years ago, and Bob Bushyhead, both Cherokees by blood, are the fathers of my children. I never lived with Ellis Whitmire, but did live with Bob Bushyhead three or four months.

CHARLOTTE NEWTON, applicant, appeared before the Commission on November 15, 1904, at Muskogee, Indian Territory, but added nothing material to her former testimony.

EMILY WEAVER, in behalf of Charlotte Newton, same date and place, testified, in part, as follows: I was on Red River, towards Texas, during the war. After the rebellion I returned to the Cherokee Nation with Aunt Liddy Quinton, and for sometime thereafter lived with her. I don't know what year this is, don't know any years at all, and never did know any.

LEWIS WEAVER, in behalf of the applicant, Charlotte Newton, same date and place, testified as follows: I was born in '51, '2 or '3, I don't know which, I know I am about 52 or 53 years old, and I live near Westville, Going-Snake District, Cherokee Nation. I am a son of Emily Weaver. My mother had four children born to her before the war: "Rant (Anthony), Tom and Mary and me" and four born since the war: Rachel, Charlotte (Newton), and Lottie Robbins and Sam King, who is dead. Sam was younger than Charlotte and Lottie. I don't know how long my mother lived with the father of Sam King. So far as I know my mother was never married to any of the fathers of her children.

ISRAEL CRITTENDEN, in behalf of applicants, same date and place, testified as follows: I am about 50 or 60 odd years old, and I live near Westville, Indian Territory. I have known Charlotte Newton about all her life. Also know her mother, Emily Weaver, who is my half-sister, same father. I became acquainted with Emily Weaver during the war. I knew Josh Robbins, became acquainted with him in Polk County, Arkansas, during the war. I returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with my aunt, Liddy Quinton, about two miles south from where Westville is now situated, in Going-Snake District, Cherokee Nation.

ANTHONY (RANT) CRITTENDEN, in behalf of applicants, appeared before the Commission on November 16, 1904, at Muskogee, Indian Territory, and testified as follows: I am 55 years old and live near Hereford, Canadian District, Cherokee Nation. My mother, Emily Weaver, and Josh Robbins began living together in Going-Snake District, Cherokee Nation, about two years after the war closed, and lived together till Josh Robbins' death, several years later. Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

(The records of this office fail to show that application for enrollment as a Cherokee citizen has been made for this witness, and he cannot be identified on any Cherokee roll in the possession of this office).

SUSANNA KIRK, in behalf of the applicant, Thomas Kirk, appeared before the Commission on December 13, 1900, at Tahlequah, Indian Territory, and testified as follows: I am 35 years old, am a Cherokee by blood, and live in Tahlequah District. My husband's name is Tom Kirk. We were married in 1882. He is about 40 years old, and is a son of Emily Crittenden (Weaver), and has lived in the Cherokee Nation all his life.

THOMAS KIRK, appeared before the Commission on February 21, 1905, at Muskogee, Indian Territory, and testified as follows: My mother's name is Emily Weaver and my father was named Robert Kirk, so my mother told me, I never saw him.

EMILY WEAVER, applicant, appeared before the Commission on June 9, 1905, at Muskogee, Indian Territory, and testified as follows: I don't know my age, I guess I am about 50. My post-office is Proctor, and I live in Going-Snake District. I returned to the Cherokee Nation the year after peace was made, but I can't remember what year that was. I returned with Will and Liddy Quinton, Mrs. Fulton, Tom Kelly and Wyley Kelly and Rosanna and Nancy John.

LEWIS WEAVER, in behalf of applicants, same date and place, testified as follows: I am going on 50 years old, and I

live in Going-Snake District. Emily Weaver is my mother. After the war closed we (my mother and I) returned to the Cherokee Nation "with old Aunt Liddy Quinton". "We started back the next year after peace was made, that is, I believe it was, but I am not certain."

THOMAS KELLY, in behalf of applicants, appeared before the Commission on July 20, 1905, at Muskogee, Indian Territory, and testified as follows: I am about 57 years old and live in Cooweescoowee District. I became acquainted with Emily Weaver in Polk County, Arkansas, and have known her since before the war. The fall after the war closed we, Emily Weaver, her children, myself and others, started for the Cherokee Nation and arrived in Going-Snake District in February, '66. I was born in Sebastian County, Arkansas, moved from there to Polk County, Arkansas, and never lived in the Cherokee Nation prior to my removal here after the war. Elijah and Sidney Phillips (Cherokee owners of Emily Weaver) had been living in Polk County, Arkansas, for several years before the war came up. "I was married in '67 or '68, I think it was in the fall of '67 ---no, it was the fall of '66". I was married in Greenwood, Sebastian County, Arkansas, in the fall and came to the Cherokee Nation the next spring. We were on our road to the Cherokee Nation when I married. We had been to the Cherokee Nation before, but Emily Weaver was not with us. She came with us in the spring of '67. I can neither read nor write. My memory is not good and it might be such a thing that I am mistaken a year or two as to these dates. I know George Crittenden, who lives at Westville. I guess he knows when we came to the Cherokee Nation. Jack Alberty came to the Cherokee Nation ahead of us. I think Emily had five or six children when we came to the Cherokee Nation as above indicated. I was mistaken when I said Emily Weaver came to the Cherokee Nation in the spring of '66, it was in the spring of '67. I am be mistaken as to the year I was married, it may have been as late as the year 1868, but I don't think it was that late when we came to the Cherokee Nation. I know Tom Kirk. He was born in Arkansas, and was just big enough to ride a horse when we came to the Cherokee Nation after the war. The first time I came to the Cherokee Nation after the rebellion my father and grandmother were with me, I stayed about a week and went back to Arkansas, where I remained probably a month and we then started to the Cherokee Nation the second time, and came to Skullyville (Choctaw Nation) and made a crop there. My father went back from there and got my grandmother and these slaves. It was our third trip that Emily came with us. "I think me and my woman got married on the first trip". "We moved up to Skullyville County my second trip to the Cherokee Nation, and it was on our third trip to the Cherokee Nation that Emily Weaver came with us." I was married in the fall and about the first of the next February following we started on our third trip to the Cherokee Nation. We had two teams stolen after we left Skullyville for the Cherokee Nation and "had to lay over down here just the other side of Port

Smith. We stayed there about a week. Then we got across the river to Lees Creek and were water bound there a week or two". I don't know how long we were on the road this trip, but think it was in March when we arrived at our destination for we sowed a few oats and put out a corn crop" upon our arrival.

In connection with the foregoing, attention is called to this witness's testimony given before the Commission on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in his own behalf, Cherokee case No. 3167, Also to a letter written by said witness to Emily Weaver, under date of July 2, 1905, a copy of which is attached to the record herein.

ANTHONY (RANT) CRITTENDEN, in behalf of applicants, same date and place, testified as follows: I am about 55 or 56 years old and live in Canadian District. I am acquainted with Emily Weaver, she is my mother. I lived in Polk County, Arkansas, when the war closed, and left there and went to the Choctaw Nation in 1865. We left the Choctaw Nation in 1866, I don't remember what time in the year, and had traveled about one day when we lost our horses. We had not crossed the Arkansas river at the time our horses were lost. It was either in the fall or winter that we made this trip "and it was in 1867 that we got to where we were going." I think it was along in the spring that we arrived at our destination. We might have been a month and a half making this trip. We were detained several days at Lees Creek, Cherokee Nation, by high water. The party making this trip was composed of my mother, Emily weaver, Thomas Kelly, Aunt Lydia Quinton, old man Kelly, and myself. I don't remember of having lived in the Cherokee Nation before the rebellion.

JOHN W. ALBERTY, in behalf of the Cherokee Nation, appeared before the Commission on July 27, 1905, at Muskogee, Indian Territory, and testified as follows: I am 71 years old, am a Cherokee by blood, and my post office is Westville. I have lived in and around the vicinity of Westville for seventy-one years. I knew Elijah Phillips. "He left (the Cherokee Nation) for Polk County, Arkansas, immediately after the Emigrant Payment, it was in, I reckon, about 1852". He moved to Arkansas with his effects and was living there when the war came up. I knew a slave named Nellie who belonged to this Phillips family, who was the mother of Emily Weaver, and who died prior to the commencement of the rebellion. Emily belonged to the Phillips family, was taken to Arkansas with them and was living there when the war came up. After the close of the rebellion I was living on the same place

that I am occupying now, which is about two and a half miles south of Westville. I knew Lydia Quinton, knew her before the war. She was a Cherokee by blood and was a cousin of mine. She returned to the Cherokee Nation after the rebellion in February, 1868. I remember this by reason of the fact that "I loaned her a wagon and team to move up there". I know that she brought Emily Weaver to the Cherokee Nation with her on the trip made in February, 1868. After the rebellion I left Texas on the first day of September, 1866, and landed in the Cherokee Nation the first week in October of the same year, and have since continuously lived in the vicinity of Westville. I made a crop near Westville the next year after my arrival, and the following fall Lige Phillips and Mrs. Quinton came to the Cherokee Nation to select a location. I loaned Mrs. Quinton a wagon to move with and the next February she returned, bringing with her some slaves, among others, Emily Weaver, Joe Weaver and old Levi Robbins also came with her on this trip. I know Tom Kelly, a Cherokee, but don't believe he came to the Cherokee Nation after the rebellion with Lydia Quinton. It seems to me he came in the fall of '68. Lige Phillips, Lydia Quinton and Emily Weaver were living on Red River, Choctaw Nation, when the war closed, and Lige Phillips, taking with him Emily Weaver, moved from there back to Polk County, Arkansas, in February, 1866, and made a crop there that year.

GEORGE CRITTENDEN, in behalf of Cherokee Nation, same date and place, testified as follows: I am 60 years old, and, with the exception of four years during the war, have lived in the vicinity of where Westville now is, all my life. I returned to the Cherokee nation after the rebellion in the fall of 1867. I know Emily Weaver and Joe Weaver, also knew Lydia Quinton, but don't know when Emily Weaver and Lydia Quinton returned to the Cherokee Nation. I know when Joe Weaver returned, it was in the spring of 1868, and we made a crop together that year. Joe Weaver was the father of one of Emily Weaver's children. I saw Joe and Emily Weaver during the war. They were then at Lige Phillips' place in Polk County, Arkansas. Aunt Lydia Quinton was not living near Westville when I returned to the Cherokee Nation in 1867, and the first time I saw her was sometime in 1868.

WAT WHITMIRE, in behalf of Cherokee Nation, same date and place, testified as follows: I am 53 years old, am a Cherokee by blood, and my post office is Westville. I lived in the vicinity of Westville before the war, and after the rebellion returned therein the fall of 1866, where I have since continuously lived. I know Emily Weaver, the applicant. The first time I remember seeing her was in January or February, 1868. She had just come in from Polk County, Arkansas, and was with a company composed of the Phillips family, the Kelly family, the Quinton family, and my uncle, Mose Crittenden. I remember this because my father said

"Your old uncle Mose Crittenden has been gone from this country a good while and just got back". During the war we moved first to Cane Hill, Arkansas, then to the Choctaw Nation, on Red River, and were living there when the war closed. There were a good many Alberty's living in our neighborhood on Red River, but I never knew of Lige Phillips or Emily Weaver living down there. I saw Uncle Jack Alberty on Red River during the rebellion but don't know where he lived at that time. The first time I ever saw Lige Phillips or Emily Weaver was in the year 1868, when Lige Phillips bought a farm near Westville. Emily at that time was at his house.

JOHN W. ALBERTY (Uncle Jack), recalled, testified as follows: I knew Watt Whitmire during the rebellion. I lived about thirty-five miles from him, in the Choctaw Nation, on Red River, I lived at the mouth of the Kiamichi river, and he lived up at the mouth of Island Bayou.

C A S E C L O S E D.

FINDINGS OF FACT AND CONCLUSION: It is considered that, following the ruling of the Department in the case of Benjamin Crittenden, et al., (I.T.D. 3484-02) supra., the applicants, Emily Weaver, Thomas Kirk, Charlotte Newton and Lottie Robbins, possess no rights to Cherokee citizenship as Cherokees by blood.

IT IS FURTHER CONSIDERED: That the evidence in this case shows that the applicants, Emily Weaver and Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the rebellion; that prior thereto and during said rebellion, they lived outside of the limits of the Cherokee Nation, and did not thereafter, remove to and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee nation et al., for the return of Cherokee freedmen to said Nation; and that all the other applicants herein were born since the close of the rebellion and possess no rights to enrollment as Cherokee freedmen other than as descendants of the said Emily Weaver.

IT IS FURTHER CONSIDERED: That after ample opportunity having been afforded, the evidence in this case fails to show that the applicants, Peggie Whitmire and Henry Bushyhead are the children of the said Ellis Whitmire, deceased, who, it is alleged, was

a Cherokee by blood, and the said Bob Bushyhead, who it is alleged, is a citizen by blood of the Cherokee Nation, consequently, the application for their enrollment comes within the ruling of the Department in the cases of Eliza Bryant, et al (I.T.D. 544-04) William Recker (I.T.D. 1468-04) Minnie Duncan et al., (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), and Moses Ross (I.T.D. 6056-04). In connection with this last finding, attention is called to the case of Sallie Brooks, et al., Cherokee Freedman Rejected case No. 54, where, under a somewhat similar, but stronger, record relative to illegitimate descendants of recognized Cherokee citizens, it was held by the Commission that "Aside from the fact that the gross immorality the mother and alleged fathers of said minor applicants acknowledge themselves guilty of, is, in itself, sufficient to discredit their testimony, and render it of little value, it is considered by the Commission that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent--one which could not be safely followed".

IT IS, THEREFORE, ORDERED AND ADJUDGED, that, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Peggie Whitmire and Henry Bushyhead, are not entitled to enrollment as Cherokee Freedmen, nor as Cherokees by blood, and their applications for enrollment as such are accordingly denied.

(Signed) Tams Bixby
COMMISSIONER.

Dated at Muskogee, Indian Territory,
this Sep 29 1905

Cherokee M 348.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emily Weaver,
et al., as citizens of the Cherokee nation.

Reply to the Petition filed by I. P. Bledsoe,
Agent for Applicants.

In this case the representatives of the Cherokee Nation contend that there has been a sufficient number of petitions to reopen and briefs filed, and they do not deem it necessary to at length reply to the petition which has been filed by Mr. Bledsoe, but in view of the fact that he has at length and ably discussed the points involved, we deem it necessary to for one moment reply to the petition, the point which we deem necessary to be answered being the question which is sought to be brought out now to show that the applicant was entitled to enrollment as a Cherokee by blood.

This is entirely a departure from the previous contentions and one we contend is not tenable and is not borne out by the record. It is possible that if Mr. Bledsoe could have found testimony to have warranted his contentions then the original application would have had more ground upon which to stand, but in her testimony, as well as those connected with her, it was attempted to be shown that she was a slave and left the Cherokee Nation during the war, and did not return until the Spring of 1865, which, as held by the Commissioner to the Five Civilized Tribes, was not a compliance with the treaty of 1866, and therefore that she and those claiming through her were not entitled to be enrolled as Cherokee Freedmen. We therefore respectfully submit that the decision of the Commissioner to the Five Civilized Tribes is correct and should be affirmed.

Respectfully submitted,

(Signed) *Will. Hastings & Company*
Attorneys for the Cherokee Nation.
H. M. S.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of EMILY WEAVER, ET AL., as freedmen citizens of the Cherokee Nation, consolidating the applications of

Emily Weaver, et al.,	Memorandum 348,
Thomas Kirk,	Cherokee D 963,
Charlotte Newton,	Cherokee D 1220,
Peggie Whitmire, et al.,	Cherokee R 618.

Brief and Argument on Behalf of the Cherokee Nation.

In compliance with the notification received from the Commissioner to the Five Civilized Tribes November 23, 1905, we will endeavor to discuss the facts in this case as we see them and to as nearly as possible give our reasons why we believe the applicants have failed to show themselves to be entitled to enrollment.

The principal applicant Emily Weaver formerly made application for the enrollment of herself and minor children as citizens by blood of the Cherokee Nation. The record of the Commissioner's office shows that Emily Weaver, et al., Memorandum case No. 348, was by the Commission dismissed for want of jurisdiction to hear and determine the rights of Emily Weaver to enrollment as a citizen by blood of the Cherokee Nation. The record further shows that all the other applicants in their applications for enrollment applied as Cherokees by blood, and the Departmental letter of November 20, 1905 (I.T.D. 3484-1902), held that the said Emily Weaver, though one-half Cherokee blood, could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. Upon this holding of the Department the Commission to the Five Civilized Tribes deemed it advisable and proper under the holding of the Department and the facts to classify not only Emily Weaver as a Cherokee freedman, but also the applicant Thomas Kirk, son of said Emily Weaver, who the testimony shows was born about 1860. The Department also held at the time that the illegitimate child of Emily Weaver, which the testimony indicates was born subsequent to the closing of the rebellion and prior to the making of the 1880 roll, although of Indian blood, identified on the Cherokee census roll of 1890 as a Cherokee by blood and whose alleged father is identified on the authenticated tribal roll of 1860 as a native Cherokee, was not entitled to enrollment as a Cherokee by blood, but that it took the status of the mother. This ruling of the Department was also considered by the Commission as authority to classify the other applicants Charlotte Newton and Lottie Robbins as Cherokee freedmen.

The letter from the Indian Office dated November 7, 1905, refers to the holding of the Commissioner to the Five Civilized Tribes and says:

"The Commissioner to the Five Civilized Tribes found that Emily Weaver and her son Thomas Kirk were slaves of Cherokee citizens at the commencement of the war; that during the war they were living outside of the limits of the Cherokee Nation, but returned thereto and established a residence therein and have continuously resided in the Cherokee Nation."

This is not a correct quotation from the finding of the Commissioner. The Departmental letter omits from the holding of the Commissioner these words, "prior thereto and." The correct quotation from the decision of the Commissioner to the Five Civilized Tribes

is as follows:

"The evidence in this case shows that the applicants Emily Weaver and Thomas Kirk were the slaves of a Cherokee citizen at the commencement of the Rebellion; that prior thereto and during said Rebellion they lived outside of the limits of the Cherokee Nation and did not thereafter remove to and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., versus The Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation, and that all the other applicants herein were born since the close of the Rebellion and possess no right to enrollment as Cherokee freedmen other than as descendants of the said Emily Weaver."

This is a correct quotation from the decision of the Commission and the testimony as we are able to read it and understand it clearly shows that the principal applicants, Emily Weaver and Thomas Kirk, did not return to the Cherokee Nation and establish their residence within the time provided in the Treaty of 1866; that is, they did not return to and establish their residence in the Cherokee Nation on or before February 11, 1867. A brief reference to what the witnesses testified I think will be sufficient to convince this Department that if a careful examination and consideration of the testimony are given, that they will be convinced by an overwhelming preponderance of the evidence that the principal applicants, Emily Weaver and Thomas Kirk, did not return to and establish their residence in the Cherokee Nation within the time prescribed by the Treaty of 1866. It will be noted from the decision of the Commissioner that this case was taken up on several different occasions and the applicant and her witnesses given ample opportunity to produce such testimony as they had tending to show a return to the Cherokee Nation and a qualification under the provisions of the treaty of 1866 between the United States and the Cherokee people. The Departmental letter of November 7, 1906, refers to the testimony of Thomas Kelly and states in full in the letter in which it is claimed that Thomas Kelly wrote this letter to Emily Weaver; also refers to the indefinite recollection of Thomas Kelly and perhaps to some extent a reference to his testimony would be proper and can be shown that his testimony when he was first called as a witness stated that they returned in 1867 or 1868, but after one or two examinations his testimony as to date ranged all the way from 1866 to 1868, but it will be shown by a careful examination of Thomas Kelly's testimony that he not only in his testimony, but in the letter which the Acting Commissioner of Indian Affairs refers to as having been written to Emily Weaver that he says, among other things, "Some of our horses and Owen was stolen you remember, then we went on, & got to Goingsnake District in 'ch. of 1867. Yes, we was on our way before Jan. 1, '67, but owing to our stock being stolen it was in 'ch. before we got there."

Whether this witness, Thomas Kelly, can read or write it is clear that he was in his mind the time that he brought Emily Weaver back with him to the Cherokee Nation, and this letter referred to by the Acting Commissioner of Indian Affairs clearly shows that Emily Weaver did not return to the Cherokee Nation until March, 1867. There is not one word in the testimony of either of the witnesses who claim that Emily Weaver or her son, Thomas Kirk, were slaves of a Cherokee citizen residing within the Cherokee Nation at the commencement of the Rebellion, nor is there any testimony which tends to show that they were residing in the Cherokee Nation at the commencement of the Rebellion. Emily Weaver, it is conceded, was a slave of Sidney Phillips who was a Cherokee by blood and whose husband's name was Elijah Phillips. Thomas Kelly in his testimony, as well as many of the other witnesses, states that Elijah and Sidney Phillips had been living in Polk County, Arkansas for several years before the commencement of the Rebellion. This being a fact undisputed then it is clear that neither- in order for Emily Weaver and the parties

claiming under her as freedmen citizens to be enrolled they will have to show by a preponderance of the testimony at least that they returned to the Cherokee Nation within the time provided by the treaty of 1866, which was on or before February 11, 1867. We do not think that the Department should compel the Cherokee Nation to prove affirmatively that Emily Weaver did not return to the Cherokee Nation on or before February 11, 1867, but we believe that the burden is upon her she being plaintiff to show by a preponderance of the evidence that she did return to the Cherokee Nation on or before February 11, 1867. At least we know that this is the principle of law which has existed from the time there was first a law written or unwritten that the party holding the affirmative, or party plaintiff, must make out his case, or at least make a prima facie case before the defendant should be required to introduce any testimony at all.

But in this case, the Cherokee Nation defendant, has not contented itself with waiting until the plaintiff had made out a prima facie case, but has gone further and introduced testimony showing conclusively that the principal applicant did not return to the Cherokee Nation within the time provided in the Treaty. All of the witnesses on behalf of the applicant testified that they got to the Cherokee Nation in the Spring of 1867. Anthony Crittenden, on behalf of the applicant, says that he lived in Polk County, Arkansas, when the war closed and left there and went to the Choctaw Nation in 1865. "It was either in the fall or winter that we made the trip and it was in 1867 that we got to where we were going. I think it was along in the Spring that we arrived at our destination. The party making this trip was composed of my mother, Emily Weaver, Thomas Kelly, Aunt Lydia Quinton, old man Kelly and myself."

All agree that at the close of the war and for some time thereafter the principal applicant in this case and her family were living in Polk County, Arkansas, and that they did not reach their destination in the Cherokee Nation until the spring of 1867. Thomas Kelly, as heretofore referred to, said March, 1867; Anthony Crittenden says, "I think it was along in the Spring of 1867." All the testimony agrees that Emily Weaver returned to the Cherokee Nation with Lydia Quinton. There is very little difference in the testimony of Susanna Kirk, Anthony Crittenden, Lewis Weaver and Thomas Kelly, all agreeing that they returned to the Cherokee Nation in the Spring of 1867. Emily Weaver, the principal applicant, says she returned to the Cherokee Nation the year after peace was made, but can not remember what year that was, but says she returned with Will and Lydia Quinton, Mrs. Fulton, Tom Kelly and others, showing conclusively that this party came to the Cherokee Nation together. The Cherokee Nation called as witnesses John W. Alberty in behalf of the Nation, who was 71 years old and is a Cherokee by blood, who testifies that he knew Lydia- Elijah Phillips and says that Elijah Phillips left the Cherokee Nation for Polk County, Arkansas, immediately after the Emigrant Payment; "It was in, I reckon, about 1852 he moved to Arkansas with his effects and was living there when the war came up;" that he knew a slave prior to the time Phillips moved to Arkansas by the name of Nellie, who was the mother of Emily Weaver, the principal applicant in this case; that Nellie died prior to the commencement of the Rebellion; that Emily was taken by Phillips to Polk County, Arkansas, and was living there when the war came up. He further testifies that he knew Lydia Quinton before the war; that Lydia Quinton was a Cherokee by blood and a cousin of his, and that she returned to the Cherokee Nation after the Rebellion, in February, 1868. He gives as his reason for knowing that she returned in 1868 that he loaned her a wagon and team to move up there. He further says that he knows that Lydia Quinton brought Emily Weaver with her when she moved to the Cherokee Nation in 1868. He says that he did not leave Texas after the rebellion until the first day of September, 1866. He also says, among other things, that after he loaned them the wagon and team, Emily Weaver returned to the Cherokee Nation with Mrs. Quinton; also Levi Robbins. He also says that Lige Phillips took Emily Weaver at the close of the war from the Choctaw Nation and moved from there back to Polk County, Arkansas

George Crittenden also testifies on behalf of the Cherokee Nation and says that he is 60 years old; that he returned to the Cherokee Nation after the rebellion in the fall of 1867; he says he knew Emily Weaver and Lydia Quinton, but that he did not know when they returned to the Cherokee Nation, but he does know that Joe Weaver returned and that it was in the spring of 1868, and gives as his reason for knowing when Joe returned, that was, that he and Joe made a crop together that year. He says that Aunt Lydia Quinton was not living when near Westville when he returned to the Cherokee Nation in 1867, and that the first time he saw her was in 1868, thus showing if Lydia Quinton and Emily Weaver came back to the Cherokee Nation together that they did not come before the winter of 1867 or the spring of 1868.

Watt Whitmire was also called as a witness for the Cherokee Nation and, among other things, he testified that he was 53 years old, his postoffice was Westville; said he lived in the vicinity of Westville before the war, and after the Rebellion returned there in the fall of 1866, where he has since continuously resided. He says that he knew Emily Weaver and that the first time he remembered seeing her was in January or February, 1868. "She had just come in from Polk County, Arkansas, and was with the company composed of the Phillips family, the Kelly family, the Quinton family and my uncle, Nose Crittenden. I remember this, because my father said, 'your uncle Nose Crittenden has been gone from this country a good while and has just got back.' The first time I ever saw Lige Lige Phillips or Emily Weaver was in the year 1868, when Lige Phillips bought a farm near Westville. Emily at that time was at his house." He further says that he did not remember seeing John W. Alberty in the Choctaw Nation during the war, but Mr. Alberty, when re-called, testified that he lived about 35 miles from Watt Whitmire in the Choctaw Nation on Red River, Alberty living at the mouth of Liamichi River and Whitmire living at the mouth of Island Bayou.

If more accurate testimony could be given as to a fact which occurred some 38 or '9 years ago, than these witnesses have given and better reasons could be given for their knowledge of the same, we confess that we cannot in our minds conjecture the case where it could be done. No one on behalf of the applicant, save the principal applicant, Emily Weaver, has attempted to swear that Emily Weaver returned to the Cherokee Nation before March, 1867. The point in this case which is material and incumbent upon the applicant to show is to our minds the point that she was the slave of a Cherokee citizen at the commencement of the Rebellion and that she returned to the Cherokee Nation on or before February 11, 1867, within six months from the date of the ratification of the Treaty of 1866. There is no controversy but what the wife of Lige Phillips was a Cherokee by blood, but all of the proof goes to show that Phillips left the Cherokee Nation and went to Arkansas with his effects on or about 1852 or '3, at least shortly after the Emigrant Payment, which was made in 1852, and that he resided continuously in the State of Arkansas from that date up to and including the breaking out of the Rebellion. The applicant in this case has not attempted to show that Lige Phillips did not have all of his effects with him in Arkansas and that he did not exercise all the rights of a United States citizen and wasn't exercising those rights as a citizen of the United States and of the State of Arkansas at the breaking out of the rebellion. If he was, then we contend that she was not a slave of a Cherokee citizen within the meaning of the Treaty of 1866, and we further contend that the burden of proof is upon her to show otherwise.

It has been discussed in these cases at great length what is necessary to constitute citizenship and how that citizenship may be forfeited, and for a discussion of that question we respectfully refer you to the general brief which has been filed on behalf of the attorneys for the Cherokee Nation in these freedmen cases, and we

will not further discuss that question in this brief, but what we shall further say upon this question will be upon the line of the return of the principal applicant within the time provided by the Treaty. It seems to us that if argument was necessary after a careful examination of this question, the testimony of the applicant, herself, would be sufficient to show that she either did not know when she returned to the Cherokee Nation after the close of the Rebellion, or that if she did know she was seeking to avoid a correct statement of the facts and trying to place herself within the provisions of the treaty. It is contended by the representatives of the Cherokee Nation that not only have the principal applicants failed to show by a preponderance of the testimony that they are entitled to be enrolled as Cherokee freedmen, but that it has been conclusively shown that they did not comply with the treaty, and we respectfully submit that the principal applicant and her son and all those of her descendants who, under the ruling of the Department of date May 31, 1900, were denied jurisdiction as citizens by blood of the Cherokee Nation, which decision was on January 3, 1902, affirmed by the Department, but subsequent to this ruling it was discovered that Emily Weaver and Lottie Robbins were identified on the Cherokee Census roll of 1896 and the case was remanded for a new decision. In Departmental letter of November 20, 1903 (I.T.D. 3484-1902) it was held that Emily Weaver could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. This being the ruling of the Department, we insist that where illegitimate children are born to a woman, or where children are born out of lawful wedlock, that the children take the status of their mother and not of their father, and in view of the fact that the Department has classified Emily Weaver as a Cherokee freedman, all of those claiming through her as her children, we insist should be classified as freedmen, unless from the testimony it is shown that she was lawfully married to a Cherokee and had children born to her while she and the Cherokee were living in lawful wedlock, or within a reasonable time thereafter, according to the laws of nature for children to be born and be of legitimate parentage. Departmental letter of November 7, 1905, refers to a Departmental letter of November 20, 1903 (I.T.D. 3484-1902), and omits what the Department at that time said in regard to Mary Crittenden's case, daughter of Emily Weaver, which is as follows:

"By this act of enfranchisement Emily Weaver and her daughter, Mary Crittenden, became citizens of the Nation. Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent. She was, however, and is shown to be entitled to enrollment as a Cherokee citizen upon the freedmen's roll. She was placed upon the 1896 census roll compiled by the Cherokee authorities. Being of three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen under the provisions of Article 9 of the Treaty of July 19, 1866 (14 Stat., 799, 801), and actually enrolled by the Cherokee authorities, it cannot be said that her recognition and enrollment was either "by fraud or without authority of law." The roll of 1896 is evidence of her right, and the facts fail to negative the prima facie case thereby made for her by her enrollment and recognition by the Cherokee authorities as a citizen."

After the quotation of the Departmental letter above the Acting Commissioner of Indian Affairs attempts at length to argue the proposition as to whether or not Emily Weaver and Thomas Kirk did return to the Cherokee Nation before February 11, 1867, and says that Emily Weaver and Thomas Kirk might easily have been in the Cherokee Nation and in Going Snake District without the witnesses having had

knowledge of such fact. This statement of the Acting commissioner of Indian Affairs stands of itself contradicted, because neither the principal applicant, nor any one for her contradicted John W. Alberty as to when Lydia Quinton returned to the Cherokee nation, because Alberty says he loaned her a wagon and team to move up to the Cherokee nation with. The principal applicant, herself, and each of her witnesses, say that this applicant returned to the Cherokee nation with Lydia Quinton. We ask in the name of reason, in the name of fairness and of justice how was it possible for Emily Weaver and Thomas Kirk to have been in the Cherokee nation and in Going Snake District without the witnesses having had knowledge of such fact. The witnesses who testified were old men and were testifying only as citizens of the Cherokee Nation and to that extent interested, but on the other hand the witnesses for the applicant were nearly all related to her, nearly all of whom were on the doubtful roll and applicants for citizenship in the Cherokee Nation and were testifying from the standpoint of an interested party and all of them, save and except the principal applicant, Emily Weaver, corroborate the witnesses for the Cherokee nation. Then we take it that from no standpoint or reason can it be shown clearly that the principal applicant, Emily Weaver, or her son, Thomas Kirk, was in the Cherokee nation on or before February 11, 1867. Departmental letter of November 7, 1905, states that,

"This office is of the opinion that the preponderance of the testimony shows that Emily Weaver and Thomas Kirk returned to the Cherokee nation within the time limit fixed by the Treaty of 1866. Furthermore, in the Mary Crittenden case the Department has practically settled the status of Emily Weaver."

We have examined the ruling of the Department in the Mary Crittenden case of November 20, 1903 (I.T.D. 3483-1902), and we are unable to see from that ruling where it has in any way settled or determined the question as to the status of Emily Weaver. It is true that in passing upon the Mary Crittenden case the Department, among other things, said that Mary Crittenden, being three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen of the Cherokee Nation under Article 9 of the Treaty of July 19, 1866 (14 Stat., 799, 801), and actually enrolled by the Cherokee authorities it can not be said that her recognition and enrollment was either by fraud or without authority of law." We do not think that the Department intended by this language to adjudicate the rights of Emily Weaver and say that Emily Weaver, the mother of Mary Crittenden because of the fact that her name appeared upon the 1896 roll made by the Cherokees was precluded from having questioned her right to be enrolled. By reference to the Amendment to the Indian Appropriation bill and the various legislation giving to the Commission to the Five Civilized Tribes jurisdiction to hear and determine these cases, it will be seen that that legislation provides:

"In making the rolls of the Citizens of the Cherokee Nation the 1880 authenticated roll of the Cherokee Nation is the only roll intended to be confirmed by the legislation; that all other questions or rolls are subject to investigation."

The Secretary of the Interior under date of November 23, 1899, instructed the Commission to take the 1880 roll as a basis for the enrollment of all citizens applying to be enrolled in the Cherokee Nation, but the act of May 31, 1900, supports our contention, which is as follows:

"Said Commission shall continue to exercise all authority heretofore conferred on it by law, but it shall not receive, consider or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory, who is not a recognized citizen thereof and duly and lawfully enrolled as such and its refusal of such application shall be

final when approved by the Secretary of the Interior."

Taking these instructions it will be seen that it does not conflict with the act of June 28, 1896, which provided that the Commission shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims of date February 3, 1896. All of the legislation has been along the line that the 1880 authenticated roll was the only roll to be taken by the Commission in making the freedmen roll as being the roll which was confirmed and the Nation has not been by any law or instruction of the Department precluded from questioning the right of any freedman applicant to enrollment whose name appeared upon any other than the 1880 roll. The 1896 roll of the Cherokee Nation is no more an authenticated roll than the Kern(Clifton) roll, none of which have been confirmed by any legislation, none of which are binding upon the Cherokee Nation and should not be used as evidence against it.

Now as to the other applicants in this case, Peggie Whitmire, an illegitimate child of Charlotte Newton; we think that the finding of the Commission on these parties is correct and should be sustained. We do not believe that the Department should insist that a party who was part Cherokee by blood and part freedman and who was not entitled to be enrolled as a Cherokee by blood, should be enrolled as a freedman citizen, unless the party from whom he derived his freedman citizenship had shown himself qualified under the provisions of the Treaty of 1866, and in this case, as we have argued at length, Peggie Whitmire and Henry Buskyhead are descendants from Emily Weaver, and, therefore, have not shown that she returned and qualified under the treaty. Neither is there sufficient testimony to show that Peggie Whitmire is the child of the said Ellis Whitmire, deceased, and that Henry Buskyhead is the child of Bob Buskyhead, deceased, both of whom were Cherokees by blood. Consequently, we contend that the application for the enrollment of ~~Henry~~ Buskyhead and Peggie Whitmire should be denied as freedmen citizens of the Cherokee Nation, it not being competent if it was shown that they were Cherokees by blood that the legitimacy or the connection with the reputed father to the mother of these children was such that it is ~~stated~~ conclusive that they were the fathers of the children.

Upon this question the Department has had before it several cases which we think sustain the decision of the Commission. Among others is the case of Lozes Ross (IT. 6056-1904), and also the case of Gullie Brooks, et al., Cherokee freedmen rejected case No. 54. These cases the Department have passed upon and have held that,

"Aside from the fact that the gross immorality of the mother and alleged fathers of said minor applicants acknowledge themselves to be guilty of, is, in itself, sufficient to discredit their testimony and render it of little value."

This, we think, is true and especially so when you come to dealing with people of such immoral standing in the communities that they will go before any court or any place and swear to the illegitimate children, or, in other words, anything that may be within their power in order to place them upon the rolls. We respectfully submit that Emily Weaver and Thomas Kirk have failed to show themselves entitled under the provisions of the treaty of 1866, and that Peggie Whitmire and Henry Buskyhead have been held by the Department to not be entitled to enrollment as Cherokees by blood, and, therefore, if ~~not~~ entitled to be enrolled as freedmen citizens they must stand upon the right of Emily Weaver, the principal applicant, and if she is not shown herself to be entitled, then the other applicants must

necessarily fail, for we contend that the other applicants must take the citizenship status of their mother and not of the putative father.

We, therefore, contend that the decision of the Commissioner to the Five Civilized Tribes in the cases herein consolidated is correct and should be affirmed.

Respectfully submitted?

Attorneys for the Cherokee nation.

By _____

DEPARTMENT OF THE INTERIOR.
Commissioner to the Five Civilized Tribes.

RECEIVED

FEB 21 1907

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emily Weaver, et al., as citizens of the Cherokee Nation, consolidating the applications of:

Emily Weaver, et al.,	Memorandum	348
Thomas Kirk,	Cherokee D	963
Charlotte Newton,	Cherokee D	1220
Peggie Whitmire, et al.	Cherokee R	618.

Protest of Cherokee Nation.

Comes now the representative of the Cherokee Nation and protests against the enrollment of each and every one of the applicants in the above consolidated case either as Cherokees by blood or as freedmen citizens or as citizens by intermarriage of the Cherokee Nation, and vigorously protests to the Honorable Secretary of the Interior against the approval of any schedule containing the names of any of the applicants embraced in the consolidated case.

The records show that all of the above applicants were rejected by the Commissioner to the Five Civilized Tribes on the 29th day of September, 1900, and the decision is an exhaustive review of the testimony filed in the case.

The Cherokee Nation felt content to rest the case upon the testimony introduced as to the return of the applicants, inasmuch as it was deemed that the testimony introduced on behalf of the Cherokee Nation conclusively proved that the applicants did not return within the time prescribed by the treaty of 1866. Had the Cherokee Nation thought that any doubt would be entertained as to the return of these applicants any number of witnesses could have been brought before the Commissioner to the Five Civilized Tribes who would have corroborated those introduced. The testimony of J. W. Alberty, who was an old and reputable citizen, whose home was near Westville, I. T., and who was a relative of the owners of Emily Weaver, is positive as to the date of the return of Emily Weaver, and that that was in 1868, and he testified that he loaned them a wagon

with which to remove their effects to the Cherokee Nation, and he is corroborated by the statements of George Crittenden and Watt Whitmire, whereas the witnesses introduced on behalf of the applicant do not, except the witness, Geor Tom Kelley, fix the date of the return of the applicants, and Tom Kelley finally admits that he might have been mistaken as to the date of the return, and he does not fix it earlier than the spring of 1867, and says that it is barely possible that it was in the spring of 1868. Now on September 21, 1900, when Thomas Kelley was before the Commission in his own behalf he testified in answer to these questions:

"Q. Now how have you lived in the Cherokee Nation? A. Ever since 1868?"

And the judgment at that time recites: "His wife was married to him in 1868." Now this is at variance with his testimony given at that time, but it clearly and conclusively corroborates J. W. Alberty and the other witnesses introduced on behalf of the Cherokee Nation. There can be no doubt but what any number of witnesses could be introduced to show that these people did not return until 1868, and in fact the supplemental petition for review dated April 18, 1906, signed by L. F. Bledsoe, representing Emily Weaver, states that they came back in the spring of 1868 and does not claim that she was entitled then as a freedman citizen, but as a Cherokee by blood and claims in this last petition that they were admitted on December 15, 1869, which was never shown, and in his petition representing the applicants uses the following language, referring to the applicants:

"Our return to the Cherokee Nation with the balance of our crowd in the spring of 1868, and our continued residence therein up to and including our readmission to citizenship by the National Council of the Cherokee Nation on December 15, 1869, and up to the present time, is proven by the statements of two old reliable Cherokees by blood, etc."

And in support of his amended motion filed on April 18, 1906, he files an affidavit of Charles Whitmire in which affidavit as to the date of the return of Emily Weaver he states:

"I have known Emily Weaver since 1868."

And after stating that she and her mother were slaves of Sidney Phillips, continues:

"And returned to the Cherokee Nation in the spring of 1868 bringing

this woman Emily Weaver."

Now we proved this by J. W. Alberty and if Thomas Velley was correct in 1900, when he made his own application, that he returned in 1866, then his testimony would be to that effect. The Cherokee Nation proved it by Watt Whitmire, and also by George Crittenden, and finally the applicant in her own petition admits it in April, 1906, that she did not return until the spring of 1868, and in support of her own petition she has filed the affidavit of Charles Whitmire to the effect that she did not return until 1868. Certainly upon this testimony and these admissions, the Cherokee Nation had a right to believe that the Department could not find anything else than that the said Emily Weaver did not return within the time prescribed by the treaty of 1866, or did not return on or before February 11, 1867.

There is, however, a second ground that we desire to urge that perhaps was not vigorously pressed before for the reason that we thought it was not necessary, although it was developed in the testimony, and that is that Emily Weaver was not a slave of a citizen of the Cherokee Nation at the commencement of the war of the rebellion. The testimony of J. W. Alberty conclusively shows that Elijah (Tigo) Phillips and family left the Cherokee Nation for Pope County, Arkansas, immediately after the Emigrant payment in 1852. The testimony of Thomas Velley is to that effect, the testimony of Anthony Crittenden is that he was born in Pope County, Arkansas, and in fact there is no testimony to contradict it. But it is stated by the witnesses that they were Cherokees upon their return. That is true, but they were not citizens of the Cherokee Nation upon the return. They were not citizens of the Cherokee Nation at the commencement of the war of the rebellion, and attached to this protest is a certificate signed by the Commissioner to the Five Civilized Tribes showing that Elijah Phillips and family were readmitted to citizenship in the Cherokee Nation by the National Council on November 26, 1868. Now if Elijah Phillips had been a recognized citizen at the beginning of the war those who returned within that short period were not required to have been readmitted, but the said Elijah Phillips, having left the

Cherokee Nation in about the year 1852, or some nine years prior to the war, and having gone to Pope County, Arkansas, and having sold his farm and effects in the Cherokee Nation, as the testimony conclusively shows, he clearly forfeited his citizenship under Section 2, Article 1 of the Cherokee Constitution, which provides:

"Whenever any citizen shall remove with his effect out of the limits of this Nation and becomes a citizen of any other government all his rights and privileges as a citizen of this Nation shall cease."

For the testimony of J. W. Alberty is that he had left the Cherokee Nation, had gone to Pope County, Arkansas, that he had bought a farm there; that he owned no improvements or property in the Cherokee Nation at the beginning of the war, and had not owned any since 1852. After some difficulty in the cross-examination of Anythony Crittenden he gave his age as 55 or 56 in 1905, which would have made him been born in 1849 or 1850, and he was asked the following questions:

"Q. Then you were born along in 1849 or 1850? A. Yes sir, I might have been born in Pope County, I couldn't say where it was."

"Q. Is it to your understanding you were born there? A. I guess I was, I couldn't say where I was born."

"Q. Then your mother was living there with Elijah Phillips when you were born? A. Yes sir."

"Q. And she never came to the Cherokee Nation until after the war? A. No sir."

"Q. Did Elijah Phillips own a farm there? A. Yes sir."

"Q. And she was living on it when the war commenced, and had been ever since you could remember? A. Yes sir, I guess he had, he was living on it when I could recollect."

Now this testimony completely corroborates the testimony of J. W. Alberty and the testimony of the other witnesses to the effect that Elijah Phillips and family moved to Pope County, Arkansas, with their effects and became citizens of Pope County years before the war, and if that be true they were not citizens of the Cherokee Nation at the commencement of the war of the rebellion and Emily Weaver, being a slave of a citizen of the State of Arkansas, residing in Pope County, Arkansas, at the commencement of the war of the rebellion, is not entitled to be enrolled under the 9th Article of the treaty of 1866.

This same question was determined by the Department in the Sallie Mayfield case, F. D. 91, and she was rejected by the Commission to the Five Civilized Tribes on April 20, 1904, and this rejection was affirmed on June 21, 1904, by the Secretary of the Interior, and that judgment of

the commission in the Sallie Mayfield case, rejecting her, of date April 20, 1904, recite as:

"The evidence herein shows that the Sallie Mayfield and Thomas Mayfield, as mentioned above, are mother and son and they were both at one time the slaves of one Sallie Mayfield who was a Cherokee citizen, but who, prior to the commencement of the rebellion, removed to the State of Texas, taking these two applicants with her and established a residence in said State."

The same is true in the case of Emily Weaver. She belonged to Elijah Phillips and his wife, Sidney Phillips, who were at one time Cherokee citizens, but like Sallie Mayfield, left the Cherokee Nation prior to the war and went to Pope county, Arkansas, whereas Sallie Mayfield went to the State of Texas; one was a citizen and resident of the State of Arkansas, the other a citizen and resident of the State of Texas, and neither a citizen of the Cherokee Nation at the commencement of the war of the rebellion. Again, in the case of Hannah West, F. D. 43, rejected by the Commission to the Five Civilized Tribes May 13, 1903, and affirmed by the Department on September 17, 1903, the decision finds:

"The evidence in this case shows that at the commencement of the rebellion the applicant Hannah West was the slave of one Sallie Mayfield and that the said Sallie Mayfield was a citizen of the State of Texas."

Upon this ground alone Hannah West was denied and her rejection affirmed by the Department.

This question was not sufficiently urged upon the attention of the Department before, but we desire now to strongly urge it and we desire also to call the attention of the Department to the admissions made by the Agent, E. B. Bledsoe, representing her, in his petition filed on April 16, 1866, wherein he admits that she did not return until the spring of 1868, and to the affidavit of Charles Whitmire filed on her behalf, wherein he finds that she did not return until 1868, and again we desire to call the attention of the Department to the fact that Elijah Phillips and family were not admitted until November 26, 1868, which is corroborative of the fact that he did not return until 1868, because if he had he would have been admitted earlier, and we desire to call the attention of the Department to the certified copy of the act admitting certain persons, not the applicants, however, filed on behalf of the applicants, and among others, were Lydia Quinton and Joseph D. Kelley and Moses

Crittenden all of whom were admitted by an Act of the Cherokee National Council approved December 15, 1865, all of which is corroborative of the fact that they did not return and is conclusive, that they had forfeited their citizenship by their continuous residence in the State of Arkansas prior to the commencement of the rebellion.

We feel confident of course that the Department will see that no injustice is done the Cherokee Nation, and we submit this protest believing that it conclusively shows:

First, that the owner of Emily Weaver was not a resident or citizen of the Cherokee Nation at the commencement of the war of the rebellion, and,

Second, that none of the applicants herein returned to the Cherokee Nation prior to the spring of 1865---too late to acquire any rights under the treaty of 1866.

Respectfully submitted,

(5) J. W. Hastings
Attorney for the Cherokee Nation.

Copy.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

JOR

Phillips	Elijah &	Nov. 26 '68	Readmitted	Unconditional
	Family	" 26' "	Readmitted	Unconditional.

I hereby certify that the above and foregoing is a true and correct copy of words and figures as found on Page 17 of a "Record of Persons admitted To Cherokee Citizenship By The National Council

" Supreme Court Since the Treaty of 1866.," said record being in the lawful custody of this office.

Thos. Blahy,

Commissioner.

Dated at Muskogee, Indian Territory,
this 2/20-1907-

D. M 348

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JAN 14 1902

[Handwritten signature]

(COPY)

Refer in reply to the following:

Land:
72318-1901.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,
Washington, Dec. 28, 1901.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith, for your consideration, memorandum of the Commission to the Five Civilized Tribes in the matter of the application of Emily Weaver for the enrollment of herself and her daughter Lottie Robbins, as citizens of the Cherokee Nation, which was forwarded by the Commission for Departmental action on the 9th instant.

The testimony of Emily Weaver shows that she is a resident of the Cherokee Nation, about 60 years of age, and that she claims a right to enrollment as a Cherokee by blood. Her daughter Lottie is 13 years old. Her father, Lewis Crittenden was a Cherokee by blood and her mother, Nellie Cole, was a Cherokee freedman. She swears she applied for enrollment to the Cherokee Council and they claimed her as a citizen; that she secured a certificate of citizenship, but lost it; that she lived with two men, both Cherokee citizens, George Robbins, the father of Lottie, and Joe Weaver, but was not married to either; that she never drew any money as a Cherokee citizen; that she employed an attorney to apply for her enrollment in 1896 but was never granted her rights.

The statement of the Commission is that the names of the applicants do not appear on any of the rolls of Cherokee citizens and that therefore, under the law, it has no power to enroll them, and

they are rejected.

Under the law governing the enrollment of Cherokee citizens by the Commission at this time (31 Stats., 221), the names of the applicants must appear on rolls already compiled. They do not so appear and therefore there is no power vested in the Commission to grant the petition and the applicants were properly rejected. I recommend the approval of the decision of the Commission.

Very respectfully,

Your obedient servant,

W. A. Jones,

Commissioner.

E.B.H.

L.

2 M-348

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JAN 14 1902

[Handwritten signature]
SPECIAL AGENT

Commission No. 406.

589.

DEPARTMENT OF THE INTERIOR,

Washington,

R

I. T. D.
5698-1901.

January 3, 1902.

L. R. S.

Commission to the Five Civilized Tribes,

Muskogee, I. T.

Gentlemen:

The Department is in receipt of the papers in the matter of the application of Emily Weaver for the enrollment of herself and her daughter Lottie Robbins as citizens of the Cherokee Nation, which application was rejected on October 8, 1901, under the provisions of act of May 31, 1900, because neither of the applicants is "a recognized citizen of the Cherokee Nation, duly and lawfully enrolled or admitted as such".

The Commissioner of Indian Affairs forwarded the said papers on December 28, 1901, recommending that your original decision in rejecting said application be approved.

The Department concurs in said recommendation, and the application is accordingly refused. A copy of the letter of the Commissioner is herewith inclosed for your information.

Respectfully,

(Signed) Thos. Ryan,

Acting Secretary.

1 inclosure.

E M 348

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JAN 14 1902

[Handwritten signature]
SPECIAL AGENT

Muskogee, Indian Territory, January 14, 1902

Mrs. Emily Weaver,

Westville, Indian Territory.

Dear Madam:-

With respect to your application for the enrollment of yourself and Lottie Robbins as citizens of the Cherokee Nation, in regard to which you were informed by the Commission's letter of December 10, 1901, that said application had been refused by the Commission, you are now further informed that the Commission is in receipt of a letter from the Honorable Secretary of the Interior, under date of January 3, 1902, stating that he has approved of the refusal by this Commission of your application referred to, and instructing the Commission to communicate that fact to you.

It is also stated, for your information, as well as for that of any others concerned, and in compliance with the tenor of the Secretary's instructions, that the refusal, as now approved, is final.

Said refusal is based upon the testimony taken in this case, a copy of which was sent you with Commission letter above referred to, and upon the provision of the act of Congress known as the Indian Appropriation Act, approved May 31, 1900, as follows:

"That said Commission shall continue to exercise all authority heretofore conferred on it by law. But it shall not receive, consider, or make any record of any application of any

E.W. - 2.

person for enrollment as a member of any tribe in Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such applications shall be final when approved by the Secretary of the Interior."

As previously indicated, it was shown that neither you nor any of the persons for whom you applied have ever been recognized as a citizen of the Cherokee Nation, and duly and lawfully enrolled or admitted as such; nor was any right of that character found to exist through a parent of any of the persons applied for in this case. Therefore, in accordance with the evidence, a copy of which was already sent you, and in accordance with the law which has just been quoted, the final refusal, now communicated to you, has been decreed.

Yours truly,

Commissioner in Charge.

Cher. Mem. 348.

COPY

Muskogee, Indian Territory, July 19, 1902.

The Honorable,

The Secretary of the Interior,

Sir:

Under date of October 8, 1901, the Commission rendered a decision in certain Cherokee Memoranda cases. Embraced in said decision was the application of Emily Weaver for the enrollment of herself and her child, Lottie Robbins, as citizens by blood of the Cherokee Nation.

It appears from the record in this case that the father of Emily Weaver was Lewis Crittenden, a Cherokee by blood, and her mother Nellie Cole, a Cherokee Freedman.

When application was made to the Commission, neither the applicant nor her child were identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission and the application was rejected under the provisions of the act of Congress approved May 31, 1900.

The Department, in its letter of January 3, 1902 (I.T.D-5698-1901), affirmed the decision of the Commission rejecting said application in accordance with the provisions of the act of Congress of May 31, 1900. Subsequent to the rendition of the Commission's decision and the receipt of the Department's letter, the applicant, Emily Weaver, was duly identified on the Cherokee Census Roll of 1896, in Goinganake District.

In view of the fact that the applicant is identified on said roll, the Commission respectfully requests that the Department withdraw its letter of January 8, 1901, affirming decision of Commission under date of October 8, 1901, rejecting the application of Emily Weaver for the enrollment of herself and child, Lottie Robbins, as citizens by blood of the Cherokee Nation and remand the case in order that a decision may be prepared in conformity with the facts as now shown and for the purpose of taking additional testimony, if necessary.

Very respectfully,

T. B. Nichols.

Commissioner in Charge.

Through Commissioner
of Indian Affairs.

(C O P Y)

Muskogee, Indian Territory, July 19, 1902.

The Honorable,

The Secretary of the Interior,

Sir:

Under date of October 2, 1901, the Commission rendered a decision in certain Cherokee Memoranda cases. Embraced in said decision was the application of Emily Weaver for the enrollment of herself and her child, Lottie Robbins, as citizens by blood of the Cherokee Nation.

It appears from the record in this case that the father of Emily Weaver was Lewis Crittenden, a Cherokee by blood, and her mother Nellie Cole, a Cherokee Freedman.

When application was made to the Commission, neither the applicant nor her child were identified upon any of the tribal rolls of the Cherokee Nation in the possession of the Commission and the application was rejected under the provisions of the act of Congress approved May 31, 1900.

The Department, in its letter of January 3, 1902 (I.T.D.-5698-1901), affirmed the decision of the Commission rejecting said application in accordance with the provisions of the act of Congress of May 31, 1900. Subsequent to the rendition of the Commission's decision and the receipt of the Department's letter, the applicant, Emily Weaver, was duly identified on the Cherokee Census Roll of 1896, in Goingsnake District .

In view of the fact that the applicant is identified on said roll, the Commission respectfully requests that the Department withdraw its letter of January 3, 1901, affirming decision of Commission under date of October 8, 1901, rejecting the application of Emily Weaver for the enrollment of herself and child, Lottie Robbins, as citizens by blood of the Cherokee Nation and remand the case in order that a decision may be prepared in conformity with the facts as now shown and for the purpose of taking additional testimony, if necessary.

Very respectfully,

(Signed) T.B.Needles,
Commissioner in Charge.

Through Commissioner
of Indian Affairs.

(C O P Y)

Refer in reply to
the following
LAND
72318--1901
44006--1902

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON, July 30, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report made on July 19, 1902, by the Commission to the Five Civilized Tribes, referring to the Cherokee memorandum case of Emily Weaver who applied for the enrollment of herself and of her child Lottie Robins as citizens by blood of the Cherokee Nation. The Commission states that its decision rejecting the applications was affirmed by the Department on January 3, 1902, (I.T.D. 5698--1902); that the Commission in transmitting the case reported that the applicant's name was not found on the tribal rolls; but that since the receipt of the Department's letter above mentioned the applicant, Emily Weaver, has been identified on the Cherokee census roll of 1896 in the Going Snake District, and it asks that the case be remanded in order that a decision may be prepared in conformity with the facts, and that additional evidence may be secured if deemed necessary.

It is respectfully recommended that the case be remanded to the Commission in accordance with its request.

Very respectfully,
Your obedient servant,

A.C.Tonner,

W.C.V. (S)

Acting Commissioner.

(COPY)

D.C.12785-1902.

WHR.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D.4641-1902.

L R S

August 2, 1902.

The Commission

to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of your communication dated July 19, 1902, relative to Cherokee Memorandum case No. 348, covering the application of Emily Weaver, for the enrollment of herself and minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation.

You report that subsequent to the rendition of your decision rejecting the application (October 8, 1901) and the receipt of departmental letter of January 3, 1902, affirming your said decision, the applicant was duly identified on the Cherokee Census roll of 1896, in Goingsnake District, and in view of this fact you request that the Department withdraw its letter of January 3, 1902, affirming your decision rejecting the application, and remand the case in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary.

The Acting Commissioner of Indian Affairs forwarded your said report under date of July 30, 1902, concurring in your recom-

mendation that the case be remanded.

The Department concurs in said recommendation and hereby withdraws its letter of January 3, 1902, affirming your decision rejecting the application.

The record is accordingly transmitted in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary.

A copy of the Acting Commissioner's letter is inclosed.

Respectfully,

(Signed Thos. Ryan,

Acting Secretary.

2 inclosures.

Cherokee M-348

Muskogee, Indian Territory, November 13, 1902.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:-

You are hereby directed to appear before the Commission to the Five Civilized Tribes at its office at Muskogee, Indian Territory, within 15 days from the date of this letter and submit further testimony as to the rights of yourself and your child, Lettie Robbins, to enrollment as citizens of the Cherokee Nation.

Please give this matter your immediate attention.

Respectfully,

Acting Chairman.

Register

Muskogee, Indian Territory, December 9, 1902.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:-

You have heretofore been notified to appear before the Commission for the purpose of giving additional testimony in the matter of your application for the enrollment of yourself and child, Lotta Robbins, as citizens of the Cherokee Nation.

It is important that you should appear and give this testimony in your case at the earliest possible date as until such testimony is presented, your application for enrollment will not be complete.

This testimony can be introduced before the Commission at its offices at Muskogee, Indian Territory, any time prior to December 24, 1902, or before the Cherokee land office at Vinita, Indian Territory after January 2, 1903.

Respectfully,

Acting Chairman.

Muskogee, Indian Territory, December 18, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of December 9, 1902 (I. T. D. 4641-1902), requesting report in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation.

In reply I have the honor to report that said Emily Weaver has been directed to appear before the Commission for the purpose of introducing further testimony as to the right of herself and children to enrollment, but has not yet complied with the request of the Commission.

Respectfully,

Acting Chairman.

Through the

Commissioner of Indian Affairs.

Mem. 346

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

FEB 9 1903



ACTING CHAIRMAN

Vinita, Indian Territory, February 9th, 1903.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

In the matter of the application of Emily Weaver, et al, Cherokee memorandum #348, remanded from the Department, the record is now deemed complete and there is herewith transmitted for the action of the Commission all original papers therein, together with copies of the supplemental testimony taken at Tahlequah, Indian Territory, August 16th, 1902, and at Vinita, Indian Territory, on January 23rd, 1903; and also copies of the Commission's letter of July 19th, 1902, to the Secretary of the Interior and departmental letters of July 30th and August 2nd, 1902.

In the matter of the consolidated case of Charlotte Downing, D-1220, and Peggy Whitmire, et al, R-618, the supplemental testimony of January 23rd, 1903, does not fully develop the citizenship of Josh Robbins, as the note attached to D-1220, requesting that Emily Weaver be examined on that matter, was not observed at the time the testimony was taken.

However, it appears that Emily Weaver and Josh Robbins lived together in Goingsnake District until the death of the latter, and that he had no other wife and never had children by any other woman. The Joshua Robbins whose name appears upon the rolls of 1880, 1883, 1886 and 1890 in Tahlequah District is an old man who had a white

2.

wife and a large family of children. It would appear, therefore, that the Joshua Robbins identified upon the rolls of Tahlequah District is not the Josh Robbins who is the father of Charlotte Downing.

Will you please advise this office whether further investigation should be made as to Josh Robbins or whether immediate disposition should be made of the Charlotte Downing case upon the evidence now on record.

Respectfully,

Clerk in Charge.

(COPY)

Refer in reply to the following:
Lend. 76,807-1903.

Department of the Interior,
Office of Indian Affairs,
Washington, April 1, 1903.

The Honorable

The Secretary of the Interior.

Sir:

There is transmitted, herewith, the record of the Commission to the Five Civilized Tribes in the matter of the application of Benjamin Crittenden for the enrollment of himself and his minor children, Emily, Lewis, David, Lula Crittenden, as citizens by blood of the Cherokee Nation, and for the enrollment of his wife, Mary Crittenden, as a citizen by intermarriage of the Cherokee Nation

Benjamin Crittenden has been differently classified and is not, therefore, embraced in the decision in this case.

On June 2, 1902, the Commission entered a judgment enrolling Mary Crittenden as a citizen by intermarriage of the Cherokee Nation, and Emily Crittenden, Lewis Crittenden, David Crittenden and Lula Crittenden as citizens by blood of the Cherokee Nation, in accordance with the provisions of section 21 of the act of Congress approved June 28, 1898, (30 Stats., 495).

On June 13, 1903, the Cherokee Nation, through its attorney, W. W. Hastings, filed an appearance and protest against the enrollment of Mary Crittenden as a citizen of the Cherokee Nation by

intermarriage, and on August 5, 1902, the case was returned by the Department to the Commission for further consideration -- I.T.D. 4453-1902, asking for an expression of the views of the commission on the objections raised by the nation, especially in view of the fact that the decision of the commission and the letter of the Acting Commissioner of Indian Affairs were silent as to the apparent fact that this applicant is of African descent.

On December 15, 1902, the commission again rendered a decision in the case saying:

While the evidence tends to show that Mary Crittenden is, "in part, of African descent, her mother being apparently, part negro, the record, as now made, also shows that she is of Cherokee descent; that she was born in 1865, and is the daughter of Emily Weaver and Joseph Weaver, who appear to have resided together as husband and wife for about five years. Joseph Weaver is identified "on the authenticated tribal roll of 1860 as a Cherokee by blood, "and the said Emily Weaver and her daughter, Mary Crittenden, are "both identified on the Cherokee census roll of 1896 as Cherokees "by blood.

"The evidence further shows that said Mary Crittenden has resided in the Cherokee Nation all her life, and her said children "are therefore considered to have been residents of the Cherokee "Nation since their birth.

"It is therefore, the opinion of this Commission that Mary "Crittenden, Emily Crittenden, Lewis Crittenden, David Crittenden,

Lula Crittenden and Walter Crittenden, should be enrolled as citizens by blood of the Cherokee Nation."

On December 19, 1902, the Cherokee Nation, through its attorney, W. W. Hastings, filed another protest against the enrollment of Mary Crittenden as a citizen of the Cherokee Nation by blood, holding that the testimony in the case shows that the mother of Mary Crittenden, Emily Weaver, was part negro; that the grandmother of Mary Crittenden, Nellie Cole, had no Cherokee blood, but claimed as a Cherokee freedman; that the testimony of Emily Weaver, the alleged mother of Mary Crittenden, is to the effect that she had never been recognized as a citizen of the Cherokee Nation. She acknowledged that she never drew any money in the Cherokee Nation.

He also alleges that the testimony further shows that Mary Crittenden is a full sister to Bullette Weaver whose name appears on the roll of 1880 as an "adopted colored," and on June 13, 1902, the Cherokee Nation filed an appeal setting forth the reasons why the judgment of the Commission theretofore rendered on June 9, 1902 enrolling the applicant as a citizen by intermarriage should not be affirmed.

Attention is also called to the statement of Benjamin Crittenden to the question "Your wife Mary Crittenden is a white woman?" the answer being "Yes sir", showing to the mind of the attorney that he applied for her as a citizen by intermarriage and not as

a Cherokee by blood; that the commission of its own motion on December 6, 1902, caused a supplemental statement to be filed in this case averring that the father of the said Mary Crittenden was one Joseph Weaver, and further on in said statement appears the statement that the tribal rolls in the possession of the commission show that said Joseph Weaver is identified on the Cherokee tribal roll of 1880, giving the page and number. Mr. Hastings says "how the Commission could ascertain that a Joseph Weaver whose name appears upon the roll of 1880 is the alleged father of the applicant is not clear to us." Joseph Weaver has never sworn to it yet he was alive and accessible; that this is a common name and for all he knows there might be several Joseph Weavers who lived in that section of country and in fact there is no evidence whatever that Joseph Weaver whose name appears upon this roll is the father of the applicant, neither is there any evidence of a marriage between any Joseph Weaver and the applicant's mother; on the other hand the applicant's mother's testimony while it is uncertain and not to the point leaves the impression that the Joe Weaver that she refers to was her illegal husband for about five years next last past because in answer to this question: "What is the name of your present husband?" she said "Joe Weaver." Later on when asked "When were you married to him?" she answered "Never was married to him just lived with him five years." She also states that she had lived with one man by the name of Robbins and had children by him and that she was never married to any man.

He calls attention to the fact that Joseph Weaver has never been called to the stand and to the further fact that Mary Crittenden herself although married in 1881, was never called to the stand, and although there were numerous payments in 1875, 1880, 1883, 1886, 1890 and 1894, the name of Mary Crittenden nor her mother Emily Weaver, did not appear upon any one of them, nor is it contended that she ever drew any money as a Cherokee by blood; that an examination of the 1896 roll shows that said Mary Crittenden was at that time 39 years of age, which would have made her born in the year 1857 and that her name does not appear upon any roll except that of 1896 which was not a pay roll and never authenticated and not binding upon the commission or the Department and the name of her mother appears upon the 1896 roll but she admits that she never drew one cent of money and that she was never recognized before as a citizen of the Cherokee Nation; that her mother was of African descent and that she was never legally married to any man.

Referring to section 692 of the Compiled Laws of the Cherokee Nation, 1892, Mr. Hastings calls attention to the fact that it provides for legitimatizing children where there was a form of marriage performed which was prohibited on account of consanguinity or where either of the parties had a former husband or wife living and it will be noted that there must have been a form of marriage which would of itself tend to show that the children of such unlawful marriages were in fact the children of this man and his wife. The same section of the Cherokee law also legitimatizes illegitimate children where the parents afterwards intermarry and thus publicly

recognizes the parentage of the children, but illegitimate children are not legitimized by any law where there has never been a form of marriage either before or after the birth of the children.

Again calling attention to section 21 of the Curtis act, the attorney says it requires the commission to enroll all Cherokee citizens whose names are found upon the Cherokee authenticated roll of 1880 and all descendants born since the date of said roll to persons whose names are found thereon and it will be noted descendants must mean, of course, all legitimate descendants.

And again that the descendants must be born since the date of said roll whereas Mrs. Crittenden was born in 1867 or 13 years ⁶⁵ before the roll of 1880 was made and there is no evidence that she was ever recognized by Joe Weaver as his child, but on the other hand there is evidence that her mother was a woman of loose morals, and was never married to any man, but had numerous other children, none of whom were recognized as citizens of the Cherokee Nation, but were always refused and never drew any money.

It is now claimed that Mary Crittenden is entitled to enrollment as a Cherokee by blood by reason of her descent from Joseph Weaver. The commission states that the Joseph Weaver referred to does appear on the Cherokee roll of 1880. With reference to the identity of Joseph Weaver as the father of Mary Crittenden the only testimony in the case is to the effect that he was the father of Mary Crittenden. The commission finds that he is on the roll. The Cherokee Nation objects because his testimony was not produced with

reference to that matter. So far as the applicant was concerned it was only necessary to allege the fact and support it with such proof as was produced in this case which constitutes prima facie proof of that fact. If the Cherokee Nation did not believe this was true it was its duty to tender testimony controverting the statements made by the witnesses for the applicant, and having neglected to seek or produce such testimony does not leave the Cherokee Nation in any attitude to protest against the action of the commission in enrolling the applicant.

The question as to the authority of the commission to enroll Mary Crittenden was passed upon by the Department in its letter in the case of the application of Nancy Ray for the enrollment of her four children-- I.T.D. 3039, 5043-1902-- the holding in that case being that they being descendants born since the date of the roll upon which the names of their parents appear, are entitled to enrollment for that reason.

It is my opinion that the decision of the commission enrolling Mary Crittenden as a Cherokee by blood should be sustained.

There is also enclosed with the papers in this case letter of the Department of January 30, 1903, -- I.T.D. 4453-1902, addressed to the commission, asking for an immediate report, which was not transmitted to the commission because of the fact that the case was pending in this office at that time.

Very respectfully,

(signed) A. C. Tonner,

Acting Commissioner.

(R.B.H.)
p/

Cherokee M 348

Tahlequah, Indian Territory, December 10, 1903.

Commission to the Five Civilized Tribes,
Cherokee Division,
Muskogee, Indian Territory.

Gentlemen:

Receipt is acknowledged of Commission's letter of December 4 requesting that jacket and record in Cherokee case M 348, Emily Weaver, et al, and card, jacket and record in Cherokee case D 2109, Lotta Robbins, be forwarded to the office of the Commission at Muskogee.

In reply I have the honor to enclose herewith jacket and record in M 348, Emily Weaver et al, which includes the application for Lotta Robbins. Cherokee case D 2109 has been cancelled and the record transferred to the case of Emily Weaver, et al.

Respectfully,

Chief Clerk
Cherokee Land Office.

MH
Encl-H-38

Cherokee,
M-848.

Muskogee, Indian Territory, June 29, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 4, 1904, (I.T.D. 4641-1902), asking for a report in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, the Commission desires to state that from the records in this case it appears that the principal applicant, Emily Weaver, has several children whose father is said to have been one Josh Robbins, a citizen by blood of the Cherokee Nation.

The Commission has been endeavoring to secure additional testimony in this case as to the citizenship of the said Josh Robbins, in order to determine the status of the said children of the principal applicant. As soon as practicable after this testimony has been secured, a prompt report will be made to the Department as to all of the parties in this case.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner in Charge.

(C O P Y)

DEPARTMENT OF THE INTERIOR
D.C. 41876-1904
I.T.D. 4382-1904. WASHINGTON.

J.P.
FHE
L.R.S.

October 27, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

May 27, 1904, the Indian Office recommended that your decision in the Cherokee freedman case of Horace S. Norman and his minor children, Harry , Cairo and Charles Norman; Irene Cannon and her nephew Henry Norman , be not a proved. June 8, 1904, you were directed to notify the attorney for the Nation and the claimants that they could submit arguments in the matter, and on October 1, 1904, you transmitted the argument of the attorney for the Nation.

You found that the applicants were not the slaves, or the descendants of slaves of Cherokee citizens, or free colored persons, residing in the Cherokee Nation at the commencement of the rebellion.

The Acting Commissioner of Indian Affairs found the applicants entitled to enrollment. He refers particularly to the testimony of Rachael Baker and George W. Vann.

Rachael Baker is shown to have known little or nothing relative to whether the principal applicant was a slave of a Cherokee citizen. In her own case the Indian Office recommended, September 17, 1904, that your decision rejecting her application be affirmed.

George W. Vann asserts that the principal applicant belonged to Judge Brown, a Cherokee citizen, but he states little else of importance than that naked assertion.

October 10, 1904, the Indian Office recommended the affirmation of your decision adverse to him in his case, of course having found his testimony unreliable.

The testimony for the Nation-- that of the step-daughter of Judge Brown, who was well acquainted with Brown's slaves-- shows that he did not own a slave by the name of Lucy, alleged to be the mother of the principal applicant Horace S. Norman, and of the father of Henry Norman.

The Department finds the evidence insufficient to warrant the enrollment of these applicants, and accordingly hereby affirms your decision.

Respectfully,

(Signed)

E. A. Hitchcock
Secretary.

Cherokee D-2901.

Muskogee, Indian Territory, December 27, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There are herewith inclosed copies of supplemental testimony taken at Muskogee, Indian Territory on November 15, 1904 and November 16, 1904, in the matter of the application for the enrollment of Charlotte Downing, as a citizen by blood of the Cherokee Nation.

Respectfully,

Chairman.

Incl. K-5.

COPY. . .

Cherokee Memo. 348.

Muskogee, Indian Territory, May 22, 1906.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

In the matter of the application for your enrollment as a citizen of the Cherokee Nation, you are advised that before the Commission can render a final decision in this case it is necessary that further testimony be introduced tending to show whether or not you were either a slave of a Cherokee citizen or a free colored person residing in the Cherokee country at the commencement of the war of the rebellion, and whether or not you established your residence in the Cherokee Nation in compliance with article nine of the treaty of 1866.

You are, therefore, hereby directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 1, 1906, and introduce testimony as above indicated. The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

Register.

(SIGNED)

Jame Dixby

Chairman.

COPY.

Cherokee Memo. 348,

et al.

Muskogee, Indian Territory, May 22, 1905.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the applications for the enrollment of Emily Weaver, et al. as citizens of the Cherokee Nation, you are advised that before the Commission can render a final decision in these cases it will be necessary that further testimony be introduced tending to show whether or not the applicants were either slaves of Cherokee citizens or free colored persons residing in the Cherokee country at the commencement of the war of the rebellion, and whether or not they established their residence in the Cherokee Nation in compliance with article nine of the treaty of 1866.

The applicants have, therefore, this day been directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 1, 1905, and introduce testimony as above indicated. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

James Bixby.
Chairman.

(C O P Y)

Centralia, I. T., July 2, 1905

Mrs. Emily Weaver.

You started with us from Polk Co. Ark., for the Cherokee Nation in the fall of 1865, we got as far as Skullyville, Choctaw Nation & we was obliged to stop and make a crop in 1866, some of our horses & oxen was stolen you remember, then we came on, & got to Going Snake district in Moh. of 1867. Yes we was on our way before Jan 1 '67 but owing to our stock being stolen it was in Moh. before we got here.

(Signed) Thomas Keley.

Cherokee Memo. 348.

COPY.

COPY.

Muskogee, Indian Territory, July 27, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony of July 20, 1905, taken in the matter of the application for the enrollment, as Cherokee freedmen, of Emily Weaver, et al.

Respectfully,

Incl. S-13

(SIGNED).

Tame Bixby.

Commissioner.

Cherokee M-348. COPY.

Muskogee, Indian Territory, August 14, 1906.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental
testimony of July 27, 1906, in the matter of the application
for the enrollment of Emily Weaver, et al., as Cherokee freed-
men.

Respectfully,

(SIGNED).

Wm O. Beale
Acting Commissioner.

LS

Incl. S-19

Cherokee M-348.

COPY.

Muskogee, Indian Territory, August 14, 1905.

R. H. Couch,

Attorney for Emily Weaver, et al.,

Westville, Indian Territory.

Dear Sir:

There is inclosed herewith copy of supplemental testimony of July 27, 1905, in the matter of the application for the enrollment of Emily Weaver, et al., as Cherokee freedmen, together with a blank form of receipt for same which you are requested to sign and return to this office.

Respectfully,

(SIGNED).

Wm O. Ball
Acting Commissioner.

LS

Incl. S-19

20
Muskegee, Indian Territory, September 29, 1905

The Honorable,

The Secretary of the Interior:

Sir:

There is herewith transmitted the record of proceedings had in the matter of the consolidated applications for enrollment, of Emily Weaver, et al., including the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, classifying Emily Weaver, Lottie Robbins, Thomas Cook, Charlotte Newton, Peggie Whitacre and Henry Bushyhead, as Cherokee Freedmen, and rejecting their applications for enrollment as such.

In connection with said consolidated case of Emily Weaver, et al., transmitted herewith, the Department's attention is invited to the case of Mary Crittenden, Cherokee Freedman No. 1259, formerly Cherokee D 51, wherein it was held by the Commission to the Five Civilized Tribes, in its decision rendered on June 9, 1902, that the said Mary Crittenden, the evidence in said case showing that she was married to a citizen by blood of the Cherokee Nation, was entitled to enrollment as a citizen by intermarriage of said

Secretary--2

Nation, the record in said case being duly forwarded to the Department. On November 20, 1903 (Departmental letter I. T.D. 3484-02), without passing upon the question of the legality of a marriage between an Indian and a person of African descent, the Commission was ordered by the Department to enroll the said Mary Crittenden upon the Freedman roll, and in pursuance of said order, her name was placed upon the Cherokee Freedmen schedule forwarded to the Department on November 2, 1904, and she is now included in a partial roll of Cherokee Freedmen approved by the Secretary of the Interior on November 16, 1904, opposite No. 3498.

The evidence in the said case of Mary Crittenden, Cherokee Freedman 1259, *supra.*, shows the facts therein to be as follows:

That the said Mary Crittenden is identified on the Cherokee Census roll of 1896 as a native Cherokee, was born since the commencement of the rebellion, (It is respectfully submitted, however, that the evidence in the consolidated case herewith transmitted, shows that she was born prior to 1861), and is an illegitimate daughter of the said Emily Weaver, who was the slave of a Cherokee citizen at the commencement of the rebellion, and one Joe Weaver, a citizen by

Secretary--3.

blood of the Cherokee Nation, and who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokees by blood approved by the Secretary of the Interior on January 16, 1903, opposite No. 1102.

In said Departmental letter of November 20, 1903, supra., it was held by the Department that the said Emily Weaver "though half Cherokee blood, was not a Cherokee citizen until the amendment of Section 5, of Article III, of the Cherokee Constitution", said amendment including as Cherokee citizens, among others, those who complied with the provisions of Article IX of the Treaty of 1866 (Cherokee Freedmen); that Emily Weaver "having never married Joe Weaver, the child (Mary Crittenden) took the status of her mother", and that "Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent".

The evidence in this case, C.T. 1259, however, fails to show that the said Emily Weaver had established a residence in the Cherokee Nation, after the rebellion, within the time specified in the Whitire decree, which, under the theory that Mary Crittenden was born subsequent to the commence-

Secretary-4

ment of the rebellion, was a material fact, and necessary to be shown in order to entitle Mary Crittenden to enrollment as a Cherokee Freedman.

It is respectfully contended by this office that the evidence taken in the consolidated case of Emily Weaver, Memo 348, et al., herewith transmitted, shows that the said Mary Crittenden was born prior to, and was the slave of a Cherokee citizen at the commencement of, the rebellion; and that she resided outside the limits of the Cherokee nation during said rebellion, and did not return to and establish her residence therein, within the time specified in the said Whitmire decree.

It is therefore, respectfully recommended that if the Department affirms the decision of this office in the consolidated case of Emily Weaver, et al., herewith transmitted, that the case of Mary Crittenden, Cherokee Freedmen 1869, be reopened and reviewed.

Respectfully ,

Through the

Commissioner of Indian Affairs.

 James P. Smith
Commissioner

Incl. B 100
LMB

Cherokee Memo.

348, et al.

Muskogee, Indian Territory, September 30, 1905.

R. H. Couch,

Attorney for Emily Weaver, et al.,

Westville, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applications for the enrollment of Emily Weaver, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. 8-128
Register

James E. Smith
Commissioner.

Cherokee Memo.

342, et al.

Sept.

Muskogee, Indian Territory, September 30, 1905.

Roll, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, reflecting the applications for the enrollment of Emily Weaver, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. 8-129

Very truly,
J. Edgar Hoover
Commissioner.

Muskogee, Indian Territory, September 30, 1905.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting, among others, your application for the enrollment of yourself and minor child, Lottie Robbins, as Cherokee freedmen. There has heretofore been furnished your attorney, R. H. Couch, Westville, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

SIGNED

James B. Bland

Incl. S-127
Register

Commissioner.

Muskogee, Indian Territory, October 2, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of September 1, 1905, (I.T.D. 4641-1902, 5690-1904), requesting a report in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, you are respectfully advised that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applicants embraced in the consolidated applications of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, was forwarded to the Department with this office letter dated September 29, 1905.

Respectfully,

LS

Commissioner.

Through the

Commissioner of Indian Affairs.

-COPY-

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
87305-1905.

C O P Y

November 7, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of October 30, 1905, (I.T.D. 14006), I have the honor to return the record in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, which was transmitted with Office report of October 23, 1905, and returned for further consideration, as requested in Office letter of October 25. The Commissioner to the Five Civilized Tribes, under date of September 29, 1905, classified Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Peggie Whitmire, and Henry Bushyhead, the applicants, as Cherokee freedmen, and rejected their applications for enrollment.

Emily Weaver's mother, Nellie Cole, was of African descent and had no Cherokee blood. Emily Weaver is the daughter of the said Nellie Cole and Lewis Crittenden, a Cherokee citizen. Lottie Robbins, Thomas Kirk, and Charlotte Newton, are children of Emily Weaver. Charlotte Newton and Lottie Robbins are her illegitimate children by Josh Robbins, deceased, a citizen by blood of the Cherokee Nation. Susanna Kirk is the wife of Thomas Kirk. Peggie

Whitmire and Henry Bushyhead are the illegitimate children of Charlotte Newton. It is claimed by Charlotte Newton that Ellis Whitmire, deceased, was the father of Peggie Whitmire, and that Bob Bushyhead is the father of Henry Bushyhead, and that Ellis Whitmire and Bob Bushyhead were Cherokees by blood.

The Commissioner to the Five Civilized Tribes found that Emily Weaver and her son, Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the war; that during the war they were living outside the limits of the Cherokee Nation, but returned thereto and established a residence therein, and have since continuously resided in the Cherokee Nation. He, however, rejected all of the applicants, and takes the position that they are not entitled to enrollment as Cherokees by blood or as Cherokee freedmen under the provisions of the Act of June 28, 1898, (30 Stats. 495).

Susanna Kirk, wife of Thomas Kirk, is not a party to the case, and Mr. Bixby did not consider or adjudicate any rights to Cherokee citizenship. Thomas Kirk and Charlotte Newton, formerly Downing, may have acquired by virtue of their respective marriages to duly recognized citizens by blood of the Cherokee Nation, but confined his whole consideration of the case to such rights to enrollment as the applicants possessed as Cherokee freedmen or Cherokees by blood.

It appears to this Office that the first question to determine in this case is whether or not Emily Weaver and Thomas Kirk returned to and established a residence in the Cherokee Nation on

or before February 11, 1867, in accordance with the provisions of the treaty of 1866, and second, whether applicants Peggie Whitmire and Henry Bushyhead, the illegitimate children of fathers who were recognized as citizens of the Cherokee Nation, should be enrolled if it is found that Emily Weaver did return to the Nation in accordance with the provisions of the treaty mentioned.

Emily Weaver is enrolled on the Cherokee census roll of 1896 at No. 489, Thomas Kirk at No. 1956, Lottie Robbins at No. 1764, and Charlotte Kirk, now Newton, at No. 1872.

The testimony in the case as to the return of Emily Weaver and Thomas Kirk is very conflicting, and the Commissioner to the Five Civilized Tribes found that they did not remove to and establish a residence in the Cherokee Nation on or before February 11, 1867. Emily Weaver testified that she was born and raised in the Cherokee Nation; that it has always been her home; and that she has never lived at any other place. She subsequently testified, however, that she returned to the Cherokee Nation, the year after peace was declared, with Will and Lydia Quinton, Mrs. Fulton, Thomas Kelly, Wyley Kelly, and Rosanna and Nancy Johnson. Charlotte Newton was born after her mother's return to the Indian Territory, and she testified that Ellis Whitmire and Bob Bushyhead were the fathers of her illegitimate children, Peggie Whitmire and Henry Bushyhead; that she never lived with Ellis Whitmire, but did live with Bob Bushyhead two months. She subsequently said she

lived with Bob Bushyhead three or four months.

The testimony of Lewis Weaver does not contain any information as to the return of Emily Weaver and Thomas Kirk.

Israel Crittenden testified that he returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with his aunt Lydia Quinton.

Anthony (Rant) Crittenden said that his mother, Emily Weaver and Josh Robbins began living together about two years after the war closed, and that Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

The testimony of Susanna Kirk, with reference to the return of her husband, Thomas Kirk, and his mother, Emily Weaver, is immaterial, as she knows nothing about their return, being only 35 years of age.

Lewis Weaver testified that after the close of the war, he and his mother returned to the Cherokee Nation with Lydia Quinton, and that they started back the first year after peace was declared.

Thomas Kelly testified that Elijah and Sidney Phillips were the owners of Emily Weaver; that they had been living in Polk County, Arkansas, for several years before the commencement of the Rebellion; that he was married in 1867 or 1868 or 1866; that his marriage occurred during his return to the Cherokee Nation, and that Emily Weaver did not return with him, but that she returned in the Spring of 1867. This witness cannot read or write, and his memory as to his marriage seem to be indefinite. He first said it was in 1867 or 1868, and then that it was in the

Fall of 1867, and again in the Fall of 1866. He also testified that Emily Weaver, returned with him on his third trip to the Cherokee Nation.

Under date of July 2, 1905, Thomas Kelly addressed a letter to Emily Weaver, as follows:

"You started with us from Polk Co. Ark. for the Cherokee Nation in the fall of 1865, we got as far as Skullyville, Choctaw Nation & we was obliged to stop and make a crop in 1866, some of our horses & owen was stolen you remember, then we went on, & got to Goingsnake District in Mch. of 1867. Yes, we was on our way before Jan. 1, '67, but owing to our stock being stolen it was in Mch. before we got there."

Anthony (Rant) Crittenden subsequently testified that he and his mother, Emily Weaver, and others, left the Choctaw Nation in 1866; that they had travelled one day when they lost their horses "and it was in 1867 that we got to where we were going." He said that they arrived at their destination in the Spring; that they were probably one and one half months making the trip, and that the party making the trip was composed of his mother, Emily Weaver, Thomas Kelly, Lydia Quinton "old man Kelly," and himself. All of the witnesses above mentioned were summonsed before the Commissioner on behalf of the applicants.

John W. Alberty says that Elijah Phillips was the owner of Nellie Cole, mother of Emily Weaver; that Nellie Cole died prior to the commencement of the Rebellion, and that Elijah Phillips left the Cherokee Nation for Polk Co., Arkansas, immediately after the emigrant payment "about 1852." He also said that Lydia Quinton was his cousin; that she returned to the Cherokee Nation

in 1868; that he loaned her a wagon and team with which to remove, and to the best of his knowledge in the Fall of 1866, Lydia Quinton and Emily Weaver were living on the Red River, in the Choctaw Nation.

George Crittenden says that he returned to the Cherokee Nation in 1867, but that he did not see Emily Weaver until some time during the year 1868.

Wat Whitmire testified that the first time he remembers seeing Emily Weaver in the Cherokee Nation was in January or February 1868. He further testified that during the war he removed to Cane Hill, Arkansas, then to the Red River, in the Choctaw Nation, where he was living at the close of the war, but that he never knew of Emily Weaver living in that vicinity.

Mary Crittenden is a daughter of Emily Weaver, and the Department on November 20, 1903, (I.T.D. 348421902), in determining the Mary Crittenden case, said, in speaking of the amendment to Section 5 of Article 3 of the Cherokee Constitution,--

"By this act of enfranchisement Emily Weaver and her daughter, Mary Crittenden became citizens of the Nation. Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent. She was, however, and is shown to be entitled to enrollment as a Cherokee citizen upon the freedmen's roll. She was placed upon the 1896 census roll compiled by the Cherokee authorities. Being of three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen under the provisions of Article 9 of the Treaty of July 19, 1866 (14 Stat., 799,801), and actually enrolled by the Cherokee authorities, it cannot be said that her recognition and enrollment was either "by fraud or without authority of law." The roll of 1896 is evidence of her right, and the facts fail to negative the prima facie case thereby made for her by her enrollment and recognition by the Cherokee authorities as a citizen."

From the testimony of Thomas Kelly, Anthony (Rant) Crittenden, and Lewis Weaver, it would seem that Emily Weaver and Thomas Kirk did not return to the Cherokee Nation on or before February 11, 1867.

The testimony of the other witnesses, both for and against Emily Weaver and Thomas Kirk is to the effect that they did return before February 11, 1867, or that such witnesses did not see them in the Cherokee nation until during the year 1868. Emily Weaver and Thomas Kirk might easily have been in the Cherokee Nation and in the Going Snake District without the witnesses having had knowledge of such fact.

This office is of the opinion that the preponderance of the testimony shows that Emily Weaver and Thomas Kirk returned to the Cherokee Nation within the time limit fixed by the Treaty of 1866. Furthermore, in the Mary Crittenden case the Department has practically settled the status of Emily Weaver.

Under the position taken by the Department in the Mary Crittenden case, it appears to this Office that Emily Weaver, Thomas Kirk, Lottie Robbins, and Charlotte Newton, are entitled to enrollment as Cherokee freedmen, but not as Cherokees by blood, and it is recommended that the decision of the Commissioner to the Five Civilized Tribes, so far as these applicants are concerned, be reversed, and that he be directed to enroll them as stated.

The Office also considers that it is clearly shown that Ellis Whitmire, deceased, a Cherokee citizen, was the father of

Peggie Whitmire, the illegitimate child of Charlotte Newton, and that Bob Bushyhead, a Cherokee citizen, is the father of Henry Bushyhead, also an illegitimate child of Charlotte Newton. The Commissioner to the Five Civilized Tribes invited attention to the Commission's holding in several cases, and especially in the case of Mary Counsel, et al., wherein the Commission said:

"Aside from the fact that the gross immorality of the mother and alleged fathers of said minor applicants acknowledge themselves to be guilty of, if, in itself, sufficient to discredit their testimony and render it of little value, and it is considered by the Commissioner that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent---one which could not be safely followed."

It appears to the Office that the position of the Department in the Nancy Ray case, November 22, 1902, (I.T.D. 5043-1902) is applicable to this case, and should be followed. Because of the immorality of the parents of these children, they should not be deprived of their citizenship in the Cherokee Nation, if entitled to such rights. In the Nancy Ray case the Department said:

"Had Congress intended to limit the right to those of legitimate descent, or descendants born in lawful wedlock, presumably it would have so provided. No reason can be assigned to exclude illegitimate descendants of male citizens and to admit such descendants of female citizens, except tribal law or usage. But tribal law or usage is not recognized by the act as authority for action of your Commission in respect to persons descended from persons born on the roll of 1880. In providing without limitation or reserve that descendants of such persons shall be enrolled, illegitimates, on either side, cannot be excluded without importing into the act words of limitation not enacted by Congress and in face of the fact that such words in a former act were ex industria excluded in framing the act in question."

It is believed by the Office that under the Department's holding in the Nancy Ray case, Peggie Whitmire and Henry Bushyhead are entitled to enrollment as citizens of the Cherokee Nation, but

that under the position taken by the Department in the Mary Crittenden case, they should be enrolled as Cherokee freedmen, instead of as Cherokees by blood, and the Office recommends accordingly.

In order that the Department may have the entire record relative to the return of Emily Weaver before it, the record in the Mary Crittenden case is enclosed.

Attention is invited to the statements in the Commissioner's report recommending the rejection of the applicants in the Emily Weaver case, and that if such action be taken, the Mary Crittenden case be re-opened and reviewed.

It is requested that this report be substituted for Office report of October 22, 1905, (Land 75612-1903--79387-1905), relating to this same subject.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

G. A. W.
LC..

Y.P.

DEPARTMENT OF THE INTERIOR,

FHE.

WASHINGTON.

I.T.D. 14654-1905.

November 10, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is inclosed herewith a copy of Indian Office letter of November 7, 1905 (Land 87305), in which it is recommended that your decision in the Cherokee freedman case of Emily Weaver, et al., be not concurred in. The case was submitted with your letter of September 29, 1905.

It is requested that you furnish the attorneys for the Cherokee Nation with a copy of the Indian Office letter, and advise them that twenty days will be allowed them within which to file any argument they may desire, evidence of service of a copy thereof upon the principal applicants to be furnished; also advise the principal applicants that they will be allowed ten days within which to reply to any argument made by said attorneys.

Respectfully,

(Signed) Thos. Ryan.

First Assistant Secretary.

Through the

Commissioner of Indian Affairs.

COPY.

Muskogee, Indian Territory, November 23, 1905.

R. H. Couch,

Attorney for Emily Weaver, et al.,

Westville, Indian Territory.

Dear Sir:

For your information there is inclosed herewith a copy of departmental letter of November 10, 1905, in reference to the Cherokee freedman enrollment case of Emily Weaver, et al. This office is instructed in said letter to notify the Attorneys for the Cherokee Nation that they will be allowed twenty days from date of notice within which to file such argument as they desire to make in this case, evidence of service of a copy thereof upon the principal applicant to be furnished. This office is also instructed to advise the principal applicants that they will be allowed ten days additional within which to reply to any argument made by the Attorneys for the nation.

The Attorneys for the Cherokee nation have, therefore, this day been notified that they will be allowed twenty days from date within which to file such argument, and the principal applicants advised that they will be allowed ten days additional time within which to file such reply as they desire to make to any argument made by said Attorneys.

Respectfully,

SIGNED

W. C. B. B. B.
Acting Commissioner.

Incl. GL-21.

GHL

COPY.

Muskogee, Indian Territory, November 23, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sirs:

You are hereby advised that this office is in receipt of Departmental letter of November 10, 1905, inclosing a copy of Indian Office letter of November 7, 1905, in which it is recommended that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, in the Cherokee freedman enrollment case of Emily Weaver, et al., be not concurred in.

This office is instructed to advise that you will be allowed twenty days within which to file such argument as you desire to make in this case, evidence of service of a copy thereof upon the principal applicants to be furnished. This office is also instructed to advise the principal applicants that they will be allowed ten days additional time within which to file a reply to any argument made by you.

You are, therefore, hereby notified that you will be allowed twenty days from date hereof within which to file such argument as you desire to make in this case and to furnish evidence of service of any argument or papers filed upon the principal applicants. The principal applicants have also this day been notified

Bell, Hastings & Davenport----2.

that they will be allowed ten days within which to reply to any argument made by you.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,

(SIGNED).

W. O. Beane
Acting Commissioner.

Incl. GL-22.
GHL

M--348.

COPY.

Muskegee, Indian Territory, November 23, 1905.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

In connection with the Cherokee freedman enrollment case of yourself et al., you are hereby advised that this office is in receipt of Departmental letter of November 10, 1905, inclosing a copy of Indian Office letter of November 7, 1905, in which it is recommended that the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the application for the enrollment of the applicants embraced in said case be not concurred in.

This office is instructed to advise the Attorneys for the Cherokee Nation that they will be allowed twenty days from date of notice within which to file any argument they desire to make, evidence of service of a copy thereof upon the principal applicants to be furnished, and also to advise the principal applicants that they will be allowed ten days additional time within which to reply to any argument made by said Attorneys.

You are, therefore, hereby advised that the Attorneys for the Cherokee Nation have this day been notified that they will be allowed twenty days from date hereof within which to file such argument as they desire to make in this case, proof of service of a

Emily Weaver---2.

copy of the same upon the principal applicants in said case to be furnished. You are further advised that you will be allowed ten days additional time within which to file such reply as you desire to make to any argument made by said Attorneys.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,

SIGNED).

W. A. Beane
Acting Commissioner.

Incl. GL-23.
GHL

Muskogee, Indian Territory, December 23, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of November 10 (I.T.D. 14654-1905), there is transmitted herewith brief and argument on behalf of the Cherokee Nation in the Cherokee freedmen enrollment case of Emily Weaver, et al., (Memo 348), evidence of service of a copy thereof on R. H. Couch, attorney for applicants, being furnished. There is also transmitted herewith reply brief of said R. H. Couch. There is nothing to show that copy of this reply brief has been served on the attorneys for the Cherokee Nation.

You are advised that subsequent to the time the principal applicants in this case and their attorney were notified of Department's letter of November 10, in which the Nation was allowed twenty days to file any argument it desired, and the applicants ten days additional within which to reply to any argument made by the attorneys for the Cherokee Nation, Mr. Couch informally advised this office that he was a notary public, and

he was informed of the rules of the Department with reference to notaries public being permitted to practice before it. This office has not been advised as to whether or not Mr. Couch has surrendered his commission as a notary public for the Northern district of Indian Territory.

Respectfully,

Incl. S-106

Commissioner.

Through the
Commissioner of Indian Affairs.

D. C. 2096-1906.
I.T.D. 132-1906.
LRS

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Y.P.
PHE.

January 10, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The argument in the Cherokee freedman case of Emily Weaver, et al., by R. H. Couch for applicants, received with your letter of December 23, 1905, is inclosed to be returned to Couch.

It appears that he has not been admitted to practice before the Department, and the argument bears no evidence of service upon the attorneys for the Cherokee nation.

You will advise the principal applicants of this action.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos. Ryan,
First Assistant Secretary.

1 inclosure.

Cherokee
Memo. 348

Muskogee, Indian Territory, January 20, 1906.

Emily Weaver,
Westville, Indian Territory.

Dear Madam:

You are hereby advised that this office is in receipt of Departmental letter of January 10, 1906, returning the argument of R. H. Couch in behalf of applicants in the Cherokee freedman enrollment case of Emily Weaver, et al., for the reason that he had not been admitted to practice before the Department, and for the further reason that the argument bears no evidence of service upon the Attorneys for the Cherokee Nation.

Respectfully,

GHL

Commissioner.

Cherokee
Name 348 et al.

Muskogee, Indian Territory, January 20, 1906.

R. H. Couch,

Westville, Indian Territory.

Dear Sir:

There is inclosed herewith argument filed by you in behalf of applicants in the Cherokee freedman enrollment case of Emily Weaver, et al. The argument was returned to this office with Departmental letter of January 10, 1906, to be returned to you with the advice that you have not been admitted to practice before the Department, and that the argument bears no evidence of service upon the Attorneys for the Cherokee Nation.

Respectfully,

Incl. GL-50.
GHL

Commissioner.

Cherokee
Memo. 348

Muskogee, Indian Territory, January 20, 1906.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

You are hereby advised that this office is in receipt of Departmental letter of January 10, 1906, returning the argument of R. H. Couch in behalf of applicants in the Cherokee freedman enrollment case of Emily Weaver, et al., for the reason that he had not been admitted to practice before the Department, and for the further reason that the argument bears no evidence of service upon the Attorneys for the Cherokee Nation.

Respectfully,

GHL

Commissioner.

Muskogee, Indian Territory, May 29, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is inclosed herewith petition made by I. P. Wledsoe, Choteau, Indian Territory, that the Cherokee enrollment case of Emily Weaver, et al. (Memorandum 348 et al.), be remanded to this office "for review and the introduction of new and material evidence recently discovered." There is also enclosed reply to said petition made by the attorneys for the Cherokee Nation.

On January 3, 1902 (I.T.D. 3693-1901), the Department affirmed the decision of the Commission to the Five Civilized Tribes dated October 3, 1901, refusing, under the Act of Congress of May 31, 1900 (31 Stat., 221), to assume jurisdiction of the application for the enrollment of Emily Weaver and her minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation; that subsequent thereto said applicants were identified on the 1896 Cherokee Census Roll, and upon request of the Commission their case was, on August 2, 1902 (I.T.D. 4641-1902), remanded to be readjudicated in the light of that evidence and for the purpose of taking additional testimony, if necessary.

In Departmental letter of November 20, 1903 (I.T.D. 3454-1902), it was held that Emily Weaver, though of one-half

Secretary--2.

Cherokee blood, could not be classified as a Cherokee by blood but must be classified as a Cherokee freedman. On September 29, 1905, the Commissioner, consolidating the application of Emily Weaver with those of her children and grandchildren, held that the applicants were not entitled to enrollment as Cherokee freedmen and their applications for enrollment as such were denied.

An examination of the petition shows that the "new and material evidence recently discovered" is an

"Act of the National Council of the Cherokee Nation, I. T. admitting all of us to citizenship on December 15, 1869, an authenticated copy of which is hereby submitted also the statements of two old reliable Cherokees citizens by blood, showing our residence, standing and our return to the Cherokee Nation and our blood, family relations and our continuous residence therein since that time, (spring of 1868). Your petitioner would state that she is entitled to enrollment as a Cherokee by blood as her father Lewis Crittenden is an Indian (1/4 Cherokee) by blood and on the authenticated rolls of said Nation, and that she is also entitled to enrollment as a Cherokee freedman under the laws and treaties governing same, having been the slave of Sidney Phillips, a Cherokee Indian, and the wife of Josh Robins, a Cherokee Indian, by whom she had two children, (Charlotte & Lottie) whose father was Levi Robins."

The copy of the Act of the Cherokee National Council approved December 15, 1869, which is certified to by C. J. Harris, Assistant Executive Secretary of the Cherokee Nation, under the Nation's seal, shows that on that date, among others, Levi Robbins and family were readmitted to citizenship in the Cherokee Nation as Cherokee by blood. The

Secretary--3.

paper attached to the petition purports to be an affidavit signed by Cale Wright and Charles Whitmire, but is not sworn to. It is stated in this document that Cale Wright and Charles Whitmire have known the applicant Emily Weaver since the years 1868 and 1870; that she is a daughter of Charles Crittenden, a Cherokee by blood, and the slave of Sidney Phillips, a Cherokee, and that she returned to the Cherokee Nation in the spring of 1868, and that Josh Robbins, a son of Levi Robbins, is the father of Charlotte and Lottie Robbins.

A number of hearings have been had in the consolidated case of Emily Weaver, et al., and the testimony introduced, both for and against the applicants, is very voluminous. The action of the Cherokee National Council of December 15, 1869, readmitting certain persons to citizenship in the Cherokee Nation, when taken in connection with the record of proceedings had in this case, shows that said action could not be construed as admitting or recognizing any of the applicants herein as Cherokee citizens.

There appears to be nothing in the petition or purported affidavit attached which was not considered when a decision was rendered in the case by the Commissioner on September 29, 1908. The Department has held that Emily Weaver could not be classified as a Cherokee by blood, and

Secretary--4,

It is admitted in the affidavit and petition that she did not return to the Cherokee Nation and establish a residence therein within the time limited by the Treaty of 1866.

It is, therefore, respectfully recommended that the petition be denied, and that this office's decision of September 29, 1905, rejecting the applicants be approved.

The Commissioner's decision in this case was forwarded to the Department with letter of September 30, 1905.

Respectfully,

Incl. 21-61.
GHL

Commissioner.

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR,

J. W. H.

I.T.D. Office of the Assistant Attorney-general,
5698-1901.
10996-1906. WASHINGTON.

February 15, 1907.

The Secretary of the Interior.

Sir:

By reference of November 17, 1906, I am in receipt of the papers in the Cherokee enrolment cases of Emily Weaver et al. and Mary Crittenden et al., with request for my opinion thereon.

The Mary Crittenden case was the subject of departmental decision of November 20, 1903. Therein it was found that Mary Crittenden is the daughter of the said Emily Weaver; that the latter is a Cherokee freedmen, and that, accordingly, the former should also be so classified and enrolled.

The Commissioner to the Five Civilized Tribes now decides adversely to the enrolment of Emily Weaver and her descendants as Cherokee freedmen. Although the Commissioner finds that Emily Weaver and her son Thomas Kirk were the slaves of a Cherokee citizen at the commencement of the war, he concludes that they did not return to and "establish a residence" in the Cherokee Nation by February 11, 1867.

On November 7, 1905, in a communication of some length

and after a detailed analysis of the testimony, the Indian Office recommended that the applicants in the Weaver case be all enrolled as freedmen, expressing at the same time the opinion that applicants Peggy Whitmire and Henry Bushyhead are also entitled to be enrolled as citizens by blood.

The testimony is to the effect that Emily Weaver is at least a half-blood Cherokee, born in the Cherokee Nation about 1841. Her father was a Cherokee; her mother was a slave, having, it is claimed, some Indian blood. Prior to the war she was carried by a Cherokee family, with the consent of the Cherokee family to which she belonged, out of the nation. Before and during the war she was held in servitude, both in Arkansas and the Choctaw Nation, by the family in whose custody she had been placed. Apparently this family carried her from Arkansas into the Choctaw Nation in 1863 and there held her until the close of the war. In the fall of 1866, according to the testimony of the applicants, Emily Weaver and her son started, with others, for the Cherokee country, arriving therein within the time fixed by the treaty of 1866.

In my opinion Emily Weaver, held as she was in restraint and servitude, never established or acquired a domicile beyond the limits of the Cherokee Nation. That has always been her home and her return thereto had no greater significance than the return of

any absentee to his home after a temporary absence. But even if it be true that in such cases the law places the same duty upon the applicants as it imposes in cases where, during the war, they voluntarily adopted other places than the Cherokee Nation as homes, still Emily Weaver and her descendants are entitled to enrolment. The Indian Office finds that the preponderance of evidence is to the effect that they returned to the Cherokee Nation in due time. I concur in this conclusion, which is corroborated by the fact that the national authorities themselves placed the name of Bullette or (Lewis) Weaver, son of Emily, upon the 1880 roll as an "adopted colored." They also enrolled her daughter, Rachel Woodall, on the 1880 roll of citizens by blood. Besides this, the department found in said decision of November 20, 1903, which is evidently correct, that Emily's daughter, Mary Crittenden, was entitled to enrolment. It further appears that the names of all the applicants are borne upon the 1896 census roll of citizens by blood, except Henry Bushyhead, who was born after the making of said roll. While the applicant's showing appears thus, the rebuttal testimony is, in the main, negative in character.

Applicant Tom Kirk was born about 1860, to the said Emily Weaver, then a slave. Born in slavery, he should be enrolled and classified as a freedman. He also claims by intermarriage as husband of Susan Kirk, nee Tadpole, a fullblood Cherokee, enrolled

in 1880, to whom he was married under a Cherokee license in 1882, but no determination as to his right by reason thereof is considered necessary herein.

Applicants Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitmire, and Henry Bushyhead are the children and grandchildren of the said Emily Weaver and are accordingly entitled to enrolment as Cherokee freedmen. They were, however, born in the Cherokee Nation to fathers who were Cherokees by blood, subsequent to the time when Emily Weaver was emancipated. From her alone they are entitled to be classed as Cherokees of the mixed blood. They have always resided in the nation, and, as noted above, all save the younges, who was born in 1898, were enrolled in 1896 as citizens by blood. I see no "lack of right" to such enrolment or evidence that it was made without "authority of law," and, being prima facie correct, it should stand. See departmental decisions in the James Shirley and Mary Crittenden cases, dated, respectively, June 12 and November 20, 1903.

Charlotte Newton also claims enrolment by reason of intermarriage with J. M. Downing, a Cherokee by blood, to whom she was married in 1886, under the Cherokee law, but it is unnecessary to discuss herein what rights, if any, were acquired thereby.

The fact that certain of the applicants are of illegitimate descent does not affect their right to enrolment as citizens.

by blood. That illegitimate children are included in the term "descendants," as used in the enrolment acts, is well settled by the decisions of the Department in the Nancy Ray and James Shirley cases and by the opinion of my predecessor in the Corbray cases, dated June 28, 1902.

Accordingly it is my opinion, concurring in the main with the views of the Indian Office, that Emily Weaver and Thomas Kirk should be enrolled as Cherokee freedmen, and that the other applicants should be enrolled as citizens by blood of the Cherokee Nation; also that the decision of the Department of November 20, 1903, in the Mary Crittenden case should not be disturbed.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved February 15, 1907.

E. A. Hitchcock,

Secretary.

C.R.W.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LIB

I.T.D.14654-1905.
3574-1907.

February 18, 1907.

L.R.S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with an approved opinion of the Assistant Attorney-General dated February 15, 1907, in the matter of the Cherokee enrollment cases of Emily Weaver et al. and Mary Crittenden et al., you are directed to enroll Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitmire, and Henry Bushyhead as citizens by blood of the Cherokee Nation. A copy of said opinion is inclosed.

A copy of Indian Office letter of November 7, 1905, was sent you November 10, 1905.

The papers in the case and a carbon copy of said opinion, also hereof, have been sent to the Indian Office for its file.

Respectfully,

Thos Ryan,

1 inc. and 19 to Ind. Of.

First Assistant Secretary.

A. F. Mc.
2, 19007.

66Ks. h. rh. 4:39p.m. 38collect. GOVT.

Washington, D. C. , Feb. 19, 1907.

Commissioner to Five Tribes,

Muskogee, I.T.

Commissioner reversed and ordered to enroll Emily Weaver and
Thomas Kirk as Cherokee freedmen and charlotte Nweton Lottie
Robbins Peggy Whitmire and Henry Bushyhead as cherokees by blood.

(J)
A. H. McGarr.

Muskogee, Indian Territory, February 20, 1907

W. W. Hastings,

Attorney for Cherokee Nation.

Dear Sir:

For your information there is enclosed a copy of a telegram dated February 19, 1907, from A. F. McGarr, an employe of this office now on duty in Washington, D. C., advising that the Commissioner's decision adverse to the applicants embraced in the consolidated Cherokee Freedman case of Emily Weaver et al., has been reversed by the Department.

Respectfully,

SIGNED *Tams D. Dyer*,
Commissioner

COPY

Washoe, Indian Territory, February 26, 1907

The Honorable,

Secretary of the Interior.

Sir:

February 18, 1907 (I.T.D. 14684-1906, 3674-1907),
the Department directed this office to enroll Emily Weaver
and Thomas Kirk as Cherokee Freedmen, and Charlotte Newton,
Lettie Robbins, Peggy Whitacre and Henry Bushyhead as citi-
zens by blood of the Cherokee Nation.

In accordance with this direction there is en-
closed a Cherokee Freedman schedule containing the names
of Emily Weaver and Thomas Kirk. There is also enclosed
a schedule of Cherokee Indians by blood containing the
names of Charlotte Newton, Lettie Robbins, Peggy Whitacre
and Henry Bushyhead. It will be noted that no roll num-
bers have been given the persons whose names appear upon
the schedules herewith transmitted. This action was taken
in accordance with procedure reported by me to the Department

Secretary-6-

on January 22, 1907, and approved by the Department February 9, 1907. It is recommended that numbers be placed upon these schedules in consecutive order by Mr. McGarr, the employe of my office now in Washington.

You are advised the Attorney for the Cherokee Nation protests against the enrollment of the persons whose names appear upon these schedules, and his protest filed February 21, 1907, is enclosed.

Respectfully,

SIGNED *Charles D. Smith*

Commissioner

Through the Commissioner of
Indian Affairs.

Incl. B-49

Cherokee
M 348.

Muskogee, Indian Territory, March 4, 1907.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

You are hereby advised that this office is in receipt of Departmental letter of February 18, 1907, ordering that your name be placed upon a schedule of Cherokee freedmen.

You are further advised that the Attorney for the Cherokee Nation protests against your enrollment as a Cherokee freedman and his protest together with the schedule containing your name was forwarded the Secretary for his decision.

Respectfully,

HJC

Commissioner.

Cherokee B-1220

D-963 B-618

Muskogee, Indian Territory, March 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear sir:

You are hereby advised that on February 19, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Weston, formerly Downing, Lottie Robbins, Peggy Whitmire and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. M-84

MH

Commissioner.

Muskogee, Indian Territory, March 8, 1907.

Emily Weaver,

Westville, Indian Territory.

Dear madam:

You are hereby advised that this office is in receipt of Departmental decision of February 18, 1907, granting your application for enrollment as a Cherokee freedman, and the application for the enrollment of your daughter, Lottie Robbins, as a citizen by blood of the Cherokee Nation.

Respectfully,

Commissioner.

MH

Cherokee D 1220-
D 962- A-613.

Muskogee, Indian Territory, March 8, 1907.

W. W. Wright,

Attorney for Emily Weaver, et al.,

Washington, D. C.

Dear sir:

You are hereby advised that on February 18, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggie Whitmire and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. M-82

Commissioner.

MH

Cherokee D-1220

D-953 R-618

Muskogee, Indian Territory, March 8, 1907.

I. P. Bledsoe,

Attorney for Emily Weaver, et al.,

Chouteau, Indian Territory.

Dear sir:

You are hereby advised that on February 16, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggie Whitmore and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. M-83

Commissioner.

MH

D.C.28533-1907.

H.T.
47347-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

June 5, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion of the Attorney for the Cherokee Nation to review and reverse Departmental decision of February 18, 1907, in the matter of the application of Emily Weaver, et al, for enrollment as citizens of the Cherokee Nation. You are requested to advise the interested parties of the Department's action.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

REFER IN REPLY TO THE FOLLOWING:

Cherokee F.
1565 et al.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 11, 1907.

I. P. Bledsoe,
Attorney for Emily Weaver, et al.,
Westville, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to review and reverse Departmental decision of February 18, 1907, in the matter of the application for the enrollment of Emily Weaver, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl. V5.
S.V.

Commissioner.

Cherokee F 1884.

Muskogee, Indian Territory, June 11, 1907.

Thomas Kirk,

Tablequah, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to review and reverse Departmental decision of February 18, 1907, in the matter of your application for enrollment as a Cherokee freedman was denied by the Department on May 17, 1907.

Respectfully,

S.W.

Commissioner.

Cherokee F
1553 et al.

Muskogee, Indian Territory, June 11, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to review and reverse Departmental decision of February 18, 1907, in the matter of the application for the enrollment of Emily Weaver, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl. W-6.
S.W.

Commissioner.

Cherokee F 1553.

Muskogee, Indian Territory, June 21, 1907.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney for the Cherokee Nation to review and reverse Departmental decision of February 18, 1907, in the matter of the application for the enrollment of yourself and others as Cherokee freedmen was denied by the Department on May 17, 1907.

Respectfully,

S.W.

Commissioner.

_____ Indian Territory, _____ 190

RECEIVED OF THE COMMISSIONER TO THE FIVE CIVILIZED
TRIBES one copy of the testimony in Emily Weaver et al, Chev

Memo 348 (Sept of 1/30/05)

R. H. Couch

Attorney for Applicant.

Westville, Indian Territory 8/18 1905

RECEIVED OF THE COMMISSIONER TO THE FIVE CIVILIZED

TRIBES one copy of the testimony in Emory Weaver et al

Memo 348 (Inpl of 7/37/5)

W. H. Church

Attorney for Applicant

Search, et al.
REFUSED

ACT OF MAY 19, 1908
MEMORANDUM

REFUSED

210

Department

SECTION
APPLICANT

SECTION FORM
ONLY FOR

SECTION FORM
ONLY FOR



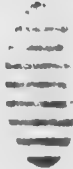
21-15-10

Department of the Interior.

Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.



I. P. Mlednoe,



*The Commission to the Five Civil
Muskog*

RECEIVED

POSTAGE

1000

The Commission to the Five Civil

Tribe



Cher Fr 1554

Cher Fr 1554

[illegible]

FILED
DEC 18 1900

1900
[Signature]
ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Tahlequah, I. T. December, 13th 1900.

In the matter of the application of Susanna Kirk for the enrollment of herself, husband and seven children as Cherokee Citizens. She being sworn before Commissioner Breckinridge, testified as follows—

- Q What is your name? A. Susanna Kirk.
Q How old are you? A. 35.
Q What is your post office? A. Tahlequah.
Q What district do you live in? A. Tahlequah.
Q Who is it you desire to have enrolled, yourself and family? A. Yes at myself, husband and seven children.
Q Are you a Cherokee by blood? A. Yes sir.
Q Full blood? A. Yes sir.
Q Is your husband a Cherokee? A. Yes sir.
Q Have you lived in the Cherokee Nation all your life? A. Yes sir.
Q Where is your husband? A. Here in town somewhere.
Q Give me the name of your father? A. John Tadpole.
Q Is he alive? A. No sir.
Q Give me the name of your mother? A. Linda.
Q Is she alive? A. No sir.
Q How many times have you been married? A. Just once.
Q When were you married to your husband? A. In 1882.
Q Have you someone here who knows that you are the daughter of John and Linda Tadpole? A. Yes sir Mr. Parris.

MR. PARRIS called and sworn as a witness, testified as follows—

- Q What is your name? A. Zeek Parris.
Q How old are you? A. 43.
Q What is your post office? A. Tahlequah.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Do you know this applicant, Susanna Kirk? A. Yes sir.
Q What is the name of her father? A. Never known her father.
Q What was her name before she was married? A. Tadpole, she was an orphan girl.
Q Do you know her given name? A. Susanna.

BY COMMISSION OF APPLICANT.

- Q What is your husbands name? A. Tom Kirk.
Q How old is he? A. 40.
Q Has he lived in the Cherokee Nation all his life? A. Yes sir.
Q Give me the name of his father? A. I don't know it.
Q Give me the name of his mother? A. Emily Crittenden.
Q Was that her maiden name? A. Yes sir.
Q Has your husband ever been married except to you? A. No sir.
Q Have you got a marriage license or certificate? A. Yes sir.

The applicant presents a license, issued by the Clerk of Goingenake District on April 17th 1888, authorizing marriage between herself and husband. The certificate shows that they were united in marriage on the 24th day of April, the year being given in the certificate as 1882, by the Rev. Joseph Smallwood. The indorsement shows that the instrument was recorded on the 8th of September, 1888. Presumably the year 1882 is an error in the certificate and should be 1883.

- Q Has your husband lived with you ever since you and he were married?
A. Yes sir.
Q Were you ever married except to him? A. No sir.
Q Was he ever married except to you? A. No sir.
Q Give me the names of your children? A. Charlotte M.
Q How old? A. 15.
Q Next child? A. Robert. Q How old? A. 12.
Q Next child? A. Samuel

Susanna Kirk 2.

Q How old? A. 20.
 Q Next? A. Walter.
 Q How old? A. 8.
 Q Next? A. Asberry.
 Q How old? A. 6.
 Q Next? A. Ezekel P.
 Q How old? A. 4.
 Q Next? A. Albert.
 Q How old? A. 3.
 Q Are these children all living now? A. Yes sir.

1880 roll, page 26 No 98.	Susan Tadpole, Orphan Roll, Saline dist.
1886 1199	1871 Susan Kirk, Tahlequah dist.
1896 1202	1855 Thomas Kirk
1896 1199	1872 Charlotte Kirk
1896 1199	1873 Robert Kirk
1896 1199	1874 Samuel Kirk
1896 1199	1875 Watie Kirk
1896 1199	1876 Asbury Kirk

BY CHEROKEE REPRESENTATIVE W. W. HASTINGS-

Q Is Tom Kirk any kin to Lewis Weaver? A. Yes sir a half brother, had the same mother.
 Q She was a colored woman wasn't she? A. They said that it was a mistake.
 Q Wasn't she a slave before the war? A. That is my information.
 Q Lewis Weaver lives in Goingsnake district doesn't he? A. Yes sir.

The applicant applies for the enrollment of herself, husband and seven children. She is identified on the 1880 roll as well as the 1896 roll as a native Cherokee. She has lived in the Cherokee Nation all her life, and she will be listed now for enrollment as a Cherokee by blood. Of her seven children the first five are identified with her on the roll of 1896, they are minors and are living at this time. They will now be listed for enrollment as Cherokees by blood. When she filed certificates of birth for her two youngest children, Keek P. and Albert Kirk, these children also will be listed for enrollment as Cherokees by blood. Her husband Thomas Kirk is shown to have married her in accordance with Cherokee law in 1882; she states that neither of them were ever previously married; he is identified on the roll of 1896. The Cherokee Representatives present, content that their law does not provide for the conferment of citizenship to colored men by intermarriage. In a case where an inter-married colored man named Tom Johnson was identified on the roll of 1880 and in every other particular identified in a satisfactory manner since the roll of 1880, that man was placed on a straight card. In the present case, this man is not on the roll of 1880, and for the further consideration of the question of raised in this and other similar cases by the Cherokee Representatives in the application for the enrollment of this man ~~William~~ Thomas Kirk, who is shown to be a colored man, he being through his mother, a colored woman, a half brother of one Lewis Weaver, who is on the Goingsnake roll of 1880 as a colored man, they having the same mother. This applicant will be placed on a doubtful card and listed thereon as a Cherokee by intermarriage.

Chas. von Weiss being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full and correct transcript of his stenographic notes therein. *Chas. von Weiss*
 Subscribed and sworn to before me this 18th of December, 1900.
 Commissioner.

B

6619

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
DEC 13 1900



ACTING CHAIRMAN.

CHEROKEES BY BLOOD AND ADOPTION.

Date

DEC 13 1900

1900.

Name

Thomas Kirk

District

TAHLEQUAH

Year 1896

Page 1202

No. 1455

Citizen by blood *yes*

Mother's citizenship

Intermarried citizen

Married under what law

Date of marriage

License

Certificate

Wife's name

Susanna Kirk

Tahlequah. 29

District

Saline

Year 1880

Page 28

No. 98

Citizen by blood *yes*

Mother's citizenship

Intermarried citizen

Married under what law

Date of marriage

License

Certificate

Names of Children:

Charlotte M. Kirk

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1872

Age 15

Robert

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1873

Age 12

Samuel

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1874

Age 10

Walter

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1875

Age 8

Asbury

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1876

Age 6

Ezekiel P.

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1876

Age 4

Albert

"

Dist.

TAHLEQUAH.

Year 1896

Page 1199

No. 1876

Age 2

Dist.

Year

Page

No.

Age

Dist.

Year

Page

No.

Age

Dist.

Year

Page

No.

Age

No 1 on 1880 roll as (orphan roll)

" 2 " 1896 " "

" 5 " 1896 " "

Susan Tadpole
Charlotte Kirk
Watie

No 7+8- affidavits of birth to be supplied

115

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIRST CIVILIZED TRIBES
FILED
APR 22 1902

ACTING CHAIRMAN

[illegible]

Supl.-C.D.#963.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 24, 1902.

SUPPLEMENTAL in the matter of the enrollment of THOMAS KIRK
as a citizen of the Cherokee Nation.

The applicant was notified by registered letter February 25, 1902, that his application for the enrollment of himself as a citizen of the Cherokee Nation would be taken up for final consideration by the Commission at its offices in Muskogee, Indian Territory on the 13th day of March, 1902. On said date the case was continued by agreement until the 24th day of March, 1902. Receipt has been acknowledged of Commission's letter. The applicant this day, to-wit, the 24th day of March, 1902, has been called and failing to respond either in person or by attorney, it is deemed that the case is completed, and the same will be reported to the Commission for final decision based upon the evidence now of record.

---00000000---

I, J. O. Rosson, do hereby certify that as stenographer to the Commission to the Five Civilized Tribes that I correctly recorded the testimony and proceedings had this day in above case, and that the foregoing is a true and complete transcript of my stenographic notes thereof.

J. O. Rosson

8963

COMMISSION TO THE

FILED

MAY 22 1902

ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 8, 1902.

In the matter of the application of Thomas Kirk for the
enrollment of himself as a citizen of the Cherokee Nation.

Cherokee Nation represented by W. W. Hastings.

COMMISSION: This cause having been heretofore continued until
this day, the applicant fails to appear in person or attorney, and
the Cherokee Nation appears by its attorney, W. W. Hastings, and
submits the case upon the evidence and record as now made up.

Arthur G. Croninger, being first duly sworn, states that as
stenographer to the commission to the Five Civilized Tribes he re-
ported in full the proceedings in the above case, and that the
foregoing is a true and complete transcript of his stenographic notes
thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 8th day of May, 1902.

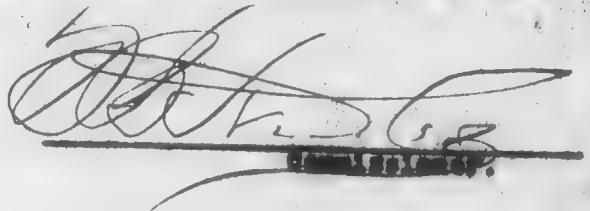
J. B. Reuter
Notary Public.

Cherokee S 943

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, June 14, 1902.

In the matter of the application for the enrollment of
Thomas Kirk as a citizen by intermarriage of the Cherokee Nation:

All the testimony in the case of Lewis Weaver, Cherokee
Freeman, D. M., is ordered filed herewith and made a part of this
record.



Commissioner.

R.
Cher. D-963.

Department of the Interior.
Commission to the Five Civilized Tribes.
Tahlequah, I. T., September 23, 1902.

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS in the matter of the application for the enrollment of THOMAS KIRK as a citizen by intermarriage of the Cherokee Nation.

THOMAS KIRK, being first duly sworn, and being examined, testified as follows:

BY COMMISSION: What is your name? A Tom Kirk.

Q Thomas or Tom? A Tom.

Q How old are you? A Forty-three last March.

Q What is your post office address? A Tahlequah, I. T.

Q You are an applicant before the Commission for enrollment as a citizen by intermarriage of the Cherokee Nation, are you? A Yes sir.

Q You have received a letter from the Commission directing you to appear before this party and offer testimony tending to show your right, if any you have, to enroll as a Cherokee Freedman, have you not? A Yes sir, I have got a letter at home, didn't fetch it with me.

Q Do you claim citizenship as a Cherokee Freedman? A No sir, I don't claim that, if I did I would try to prove it. I have tried to prove it and didn't, that fell through. I was trying to prove it before the National Council, but they done away with it, and I can't claim it now.

Q You make application now as a citizen by ~~his~~ intermarriage of the Cherokee Nation? A Yes sir.

Q Were you married to a citizen by blood of the Cherokee Nation? A Yes sir.

Q What is the name of your wife? A Susie Tadpole before I married her. I guess you will find it on the Saline Roll, she was going to school at the Orphan Asylum.

Q You were married to her according to Cherokee law? A Yes sir.

Q Have you some children? A Yes sir, they are all down, they have been enrolled.

Q You and your wife have lived together continuously since the date of your marriage. A Yes sir.

Q Were you ever married before you married her? No sir.

Q Was she ever married before she married you? A No sir, I guess not.

Q Did you ever hear her say? A No sir.

Q Ever hear of her being married before? A No sir.

Q Have you any reason to believe she was ever married before? A I don't believe she ever was, she was too young. She was seven-

teen, I believe, when we were married. In fact, I know she was not.

Q You say that you at one time claimed citizenship as a Cherokee Freedman? A Yes sir.

Q You made application to the tribal authorities for enrollment as a Cherokee Freedman? A No, I didn't, I haven't, since the Dawes Commission come there and that fell through with, as I say, and we haven't got any testimony at all. Dick Wolfe had our testimony that we had, from old Uncle Eli Wright and Jack Wright, and we passed it through the Council here, and he got it misplaced somewhere and we can't find it, and they are both dead. So by that I don't claim any. It is no use, I don't think.

Q You did, though, at one time, make application for recognition as a Cherokee Freedman? A Yes sir.

Q And that application was denied? A It fell through.

Q You now claim your enrollment, you say, by reason of your marriage to your wife, who is a Cherokee by blood? A Yes sir.

Q You don't desire to offer any further testimony at all in regard to your enrollment as a Cherokee Freedman? A No sir.
Q When were you and your wife married? A In 1882.
Q You filed your Cherokee marriage license and certificate of marriage with the Commissioner? A The Commissioner kept the certificate, but he gave my wife back the license and it is there at home. I have it at home.

Wm. Hutchinson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of the stenographic notes thereof.

Wm. Hutchinson

Subscribed and sworn to before me this 23d day of September, 1902.

John Hession
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
OCT 21 1902

[Signature]
ACTING CHAIRMAN

Cherokee

Recorded this 8th

Sept 1882 P. 15

W. H. Thompson Clerk
Henry Smoke Did

Cherokee Nation

Hoising Snake District

By virtue
Authority I hereby issue a marriage
license, to Thomas Kirk a Citizen of
the United States— he having complied
with the ^{requirements} ^{law} in such cases—

To Mary Susie Sadpole a Cherokee
by blood Therefore any of the legal au-
thorities of the Cherokee Nation, or any
Minister of the gospel of any denomina-
tion of Christians— legally authorized so to do
is hereby empowered to perform the
marriage Ceremony between the above named

parties Given under my hand
and seal of office This 14 day of
April 1882 W. C. Thompson Secy
Hoising Snake Dist C. N.

I certify that I this day have joined
in the holy bonds of Matrimony the above named parties
ages respectively 22, & 17 years

This 24 day of April 1882

W. C. Thompson
Notary

24
Josephine M. Smith

FILED
FEB 22 1905
COMMISSION TO FIVE TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, February 21, 1905.

In the matter of the application for the enrollment of Thomas Kirk as a citizen by intermarriage of the Cherokee Nation.

Thomas Kirk, being first duly sworn, testified as follows:

- Q. What is your name? A. Thomas Kirk.
Q. What is your post office address? A. Tahlequah, Indian Territory.
Q. What is your mother's name? A. Emily Weaver.

(Emily Weaver, the mother of the applicant, is found Memorandum case number 348.)

- Q. What was your father's name? A. Kirk.
Q. His full name? A. Robert Kirk, so mother told me. I never saw him. That is what she told me.
Q. Your mother claims rights as a Cherokee by blood, doesn't she? A. I declare, I am not able to tell you.
Q. You do not know? A. No sir, I do not. They come down here and I didn't come with them, and I don't know how they put in.
Q. I think if I were you I would find out. You ought to know something about your own mother, it seems to me.

WITNESS EXCUSED.

John H. Greece, being first duly sworn, testified as follows:

- Q. What is your name? A. John H. Greece.
Q. What is your post office address? A. Tahlequah.
Q. You are a Cherokee Indian? A. Yes sir.
Q. How old are you? A. I was born in '67.
Q. You appear here as a witness for Thomas Kirk? A. Yes sir.
Q. What do you know about this case? A. I don't know anything about it. He just wanted me to identify him as the Thomas Kirk in his citizenship business; to prove that there was no Thomas Kirk but him.
Q. I do not think there is any question as to his identity. There is a Thomas Kirk on the roll in Tahlequah District. That is he, is it not? A. Yes sir.
Q. Have you ever held any official position in the Cherokee Nation? A. No sir.
Q. Do you know anything as to his blood? A. No sir, I don't.

Thomas Kirk ----- # 2.

- Q. You do not know whether he is a Cherokee by blood or a Freedman? A. No sir.
- Q. How long have you known Thomas Kirk? A. Ever since I was big enough to remember anything, but I never had any dealings with him until about 12 or 13 years ago.

Mr. Davenport:

- Q. Where has Thomas Kirk been living? A. He is living in Tahlequah District, but he has been living in Going Snake District.
- Q. He was a man grown when you first got acquainted with him? A. Yes sir. I first saw him when I was small.
- Q. Did I understand you to say that he is the only Thomas Kirk making application as a Cherokee or Freedman? A. The only one I know of.
- Q. Are you in position to know whether he is the only one or not? A. I don't know.
- Q. You do not know what roll he properly belongs on, do you? A. No sir, I don't.

WITNESS EXCUSED.

John Newton, being first duly sworn, testified as follows:

- Q. What is your name? A. John Newton.
- Q. What is your post office? A. Westville.
- Q. Cherokee Nation? A. Yes sir.
- Q. Do you know the applicant, Thomas Kirk? A. Yes sir.
- Q. How long have you known him? A. For ten years.
- Q. What do you know about him --- as to whether he is a Cherokee by blood or not? A. His mother applied as a Freedman on the 15th. of November. She claims her right as a Freedman.
- Q. You do not know anything as to the blood of Thomas Kirk? A. No sir, I couldn't say anything as to his blood.
- Q. Has he been living in the Cherokee Nation as long as you have known him? A. Yes sir.

Mr. Davenport:

- Q. Was his mother Emily Weaver? A. Yes sir.
- Q. You have known him how long? A. Ten years.
- Q. And since you got acquainted with him he has been living continuously in the Cherokee Nation? A. Yes sir.
- Q. You do not know, from your own personal knowledge, what roll these people belong on? A. I had this case brought here before the Commission. I had an attorney here, by the name of Couch, and paid the expenses and paid him \$50.00 to prosecute this case, and we prosecuted it under the Freedman Act.

WITNESS EXCUSED.

Thomas Kirk ----- # 3.

Thomas Kirk recalled.

- Q. On what do you base your right to enrollment, today? A. I follow my mother. Wherever they place her, I will be, too.
- Q. If the Commission should find that you are entitled to be enrolled as a Cherokee Freedman, and also that you are entitled to be enrolled as a Cherokee by intermarriage, do you wish to be finally enrolled as a Cherokee by intermarriage or as a Cherokee Freedman? A. Why, as a Freedman.
- Q. In other words --- let us have this thing straight now --- you desire to have your rights determined, first, as a Cherokee by blood or a Freedman; and then, in case the Commission finds that you are entitled to be enrolled either as a Freedman or as a citizen by blood, that you wish to be enrolled as such, and that your application as a citizen by intermarriage be cancelled? A. That is what I am here for --- anywhere they see fit to put me.
- Q. Well, but we can't keep this case going until you make up your mind. This has got to be settled right now. If the Commission should hold that you are entitled to be enrolled as a Freedman, do you want to be enrolled as that and let your application as an intermarried citizen go? A. Yes sir.
- Q. You want your citizenship to follow that of your mother? A. Yes sir.
- Q. If the Commission refuses you as a Freedman or by blood, then you want your application for intermarried rights to be passed upon? A. Yes sir.

Mr. Davenport:

- Q. When you married your wife, under whom you claim your intermarried rights, what proceedings did you have before your marriage? A. I obtained a tribal license.

WITNESS EXCUSED.

Eula Jeanes Branson, being first duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 20th. day of February, 1905, and that the above and foregoing is a true and correct transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 21 day of February, 1905.

Edw. J. [Signature]
Notary Public.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JULY 20, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMILY WEAVER ET AL., as Cherokee freedmen.

APPEARANCES:

For Applicants, R. H. Couch.

For the Cherokee nation, W. W. Hastings.

THOMAS KELLEY, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Thomas Kelley.
- Q Where do you live? A In Cooweescoowee district.
- Q How old are you? A I am about 57 years old.
- Q Are you acquainted with Emily Weaver? A Yes sir.
- Q How long have you known her? A Since the war.
- Q Did you know her during the war? A Yes sir.
- Q Where was she during the war when you knew her? A In Polk County, Arkansas.
- Q Was she a slave? A Yes sir.
- Q To whom did she belong? A To old Lige Phillips.
- Q Were they Cherokee Indians? A Yes sir, his wife was.
- Q What time did she leave Polk County, Arkansas? A It was in the fall of '95.
- Q Of '95? A No sir, '65 just a year after the war closed, it closed in '65 we left there that fall.
- Q You are sure you left Polk County, Arkansas, in 1865? A Yes sir.
- Q Where did you start Mr. Kelley? A We started to the Cherokee Nation.
- Q What time did you get to the Cherokee nation? A It was in February of '66 I guess.
- Q Emily Weaver came with you? A Yes sir, her and her children.
- Q Where did you settle? A We settled in Goingsnake district on the Arkansas line.
- Q How many children did she have at that time? A Now let me see, I will count them up, I guess she had 6 children to the best of my memory.
- Q What are their names? A There was Rose, Lewis, Tom, Charlotte, Rachel and Mary I guess were the children.
- Q Are you sure she had that many children at that time? A Now let me study awhile about it I won't be sure, now she might not have had but five, I won't be positive.
- Q Were you well acquainted with ~~her~~ them? A Yes, raised up right by me with them all the time.
- Q What time of the year was it when you got into the Cherokee Nation? A We crossed the Arkansas River just above Fort Smith in February, I couldn't state the day exactly, I would not be positive about that.
- Q It was in February? A Yes sir.
- Q 1866? A Yes sir, cause we got clear up in Goingsnake district in time to plant a corn crop that year.
- Q Where did you make your crop that year? A On the old Woodall farm right near where Westville is now on Valley Creek.

- Q Where did this old lady Emily Weaver live at that time? A On the old Beatty prairie with my grand-mother.
- Q Who was your grand-mother? A Lydia Quinton, one of the boys, Lewis, worked with me that year.
- Q You say you got here in time to make a crop, that you come back in time to plant corn? A Yes sir.
- Q Did you sow oats? A Yes sir.
- Q What time do you usually sow oats in that country? A In the spring.
- BY MR. HASTINGS:
- Q Where were you born? A I was born in Sebastian County, Arkansas.
- Q Had you ever lived in the Cherokee Nation before the war? A No sir I was born in Arkansas, my father left here in an early day and went to Arkansas.
- Q What county? A Sebastian county.
- Q And then you went from there to Polk County? A Yes sir.
- Q Were you related in any way to Elijah Phillips? A His wife was related to my mother.
- Q What relation was Sidney Phillips to your mother? A I think they were cousins.
- Q When did you go to Polk County, Arkansas? A I couldn't state, we were there when the war come up.
- Q About how long before the war come up, ever since you can remember? A Yes sir.
- Q Were Elijah and Sidney Phillips there ever since you can remember? A No sir.
- Q Didn't they come there in 1854? A I couldn't answer that.
- Q Well it was 7 or 8 years before the war? A I couldn't answer that question.
- Q You know they were living there several years before the war? A Yes sir.
- Q Did they own a farm there? A I guess they did, they were on a farm.
- Q And were living there before the war came up? A Yes sir, to the best of my memory. I couldn't say positive, I remember when we all fixed to come to the Cherokee Nation, well I don't remember about the Phillips family the Crittendens were related to us.
- Q Do you know George Crittenden at Westville? A Yes sir.
- Q Does he know when your people came back? A I guess he does, he didn't come with us.
- Q Did any other family come with you? A There was I reckon grand-mother, the old lady Quinton, and my father and mother and our families is the outfit that come along.
- Q Where did you come from? A From Polk, county, Arkansas.
- Q Then you started from where you had been living before the war? A Yes sir.
- Q Did they sell their place down there? A Yes sir.
- Q Did Elijah and Sidney Phillips sell their place down there? A I guess they did.
- Q Did they ever go back there? A No sir I don't think they have.
- Q You came in wagons did you? A Yes sir.
- Q Now on what place near Westville did Lydia Quinton move to after the war? A She stopped at Joe Starr's.
- Q How long did she live at Joe's? A Not long, then she come up on the Alberty prairie and bought a place.
- Q Where is that from where Westville now is? A Right south of Westville.
- Q How far? A Only a mile or so, she bought it from Sarah Peters.
- Q Who owns that place today? A I don't know.

- Q Who owned it the last time you saw it? A I think this Mose Phillips.
- Q In what year were you born? A I couldn't state to my age exactly. My family record got burned up when my house burnt, but I must be 56 or 57.
- Q In what year were you married? A I was married in '68 or '68.
- Q You don't remember? A It is '67 or '68, I think it was the fall of '67 I was married. No sir I was married in the fall of '66.
- Q Then you were married in the fall after you came up here? A I was married in Greenwood, Sebastian county, Arkansas, in the fall of '66 that I was married?
- Q In the fall of '66? A Yes sir.
- Q Then you were married the fall before you come? A Yes sir.
- Q Then you come here the next spring? A We were on our road then, we stopped in Sculleyville, my father and me, it was before these folks come. We come on to this country and went back and got grand-mother and brought her on in the fall of '68 and come on that fall.
- Q I thought you said you were married in the fall of 1866? A We were on ~~our~~ our road, we were then on the Arkansas River when I was married and come on here.
- Q Now had you been to the Cherokee nation before you married, or were you on your road here? A We were on our road here.
- Q That was your first trip? A No sir we had been here before.
- Q But Emily Weaver was not with you? A No sir.
- Q What time in the fall of 1866 were you married? A I couldn't state the date.
- Q Don't you know the month? A It must have been along about the first of October or September.
- Q You are not positive about it? A No sir.
- Q But you know it was in 1866? A Yes sir.
- Q And you know at that time that Emily Weaver had never been out here? A No sir.
- Q And you come then the next spring with her? A Yes sir, in February.
- Q You don't know what time in February it was? A I couldn't state the day exactly, I know we were on the road and crossed the river in the Territory.
- Q You landed here then in the spring of 1867? A Yes sir.
- Q That was in the spring after you married in the fall of 1866? A Yes sir.
- Q How long did you stop down there in Sebastian county when you were married? A We stayed I reckon about a couple of weeks.
- Q Was Emily Weaver with you down there when you married? A Yes sir.
- Q Did you get a license down there when you married? A Yes sir, I don't know for I don't believe just after the war whether there was such a thing as license down there or not.
- Q Can you read and write? A No sir I can't sign my name.
- Q Your memory is not very good these days? A It is just like I tell you, just when the war closed.
- Q Then you may be mistaken a year or two about it? A It might be such a thing, it is just like I tell you it is the best of my memory about these circumstances.
- Q You are going by the time the war closed? A Yes sir.
- Q You came here the next spring after you were married in the fall of 1866? A Yes sir.

- Q You know she hadn't been here before that time? A No sir.
- Q Where was Jack Alberty living when you folks come up there? A I think Jack had come on to the Territory ahead of us but I don't know whether Jack had left and was living here when we started, we were all fixed and all the Cherokees to come back to the Territory.
- Q You don't remember how many children Emily had? A It was either 5 or 6 I couldn't state positively how many she did have.
- Q When was your oldest child born? A I couldn't state exactly without the record.
- Q Is your oldest child living? A Catherine is living.
- Q What is her present name? A Catherine Murphy, she is enrolled all right.
- Q Where was she born? A In Cooweescoowee District.
- Q What time in the year was she born? A I couldn't say that.
- Q Then your memory is not very good about dates? A It isn't, no sir, it is bad.
- Q You don't know what year then she was born? A No sir, I couldn't state.
- Q Then you might be mistaken even in the year when you come out here? A I might be, just as I told you I was just judging by when the war closed.
- Q You swore you were married in the fall of 1866? A Yes sir.
- Q Now then you didn't come here until the next spring, that would be the spring of 1867? A Yes sir.
- Q Then you were mistaken when you said you came here with Emily Weaver in the spring of 1866, it was in the spring of 1867 wasn't it? A Yes sir.
- Q You might even be mistaken about the year you were married, it might have been in the year of 1868? A Yes sir.
- Q Then it might have been as late as the spring of 1868 when you come? A I don't think it was that late, I can't fix it as that late.
- Q But it couldn't be earlier than the spring of 1867 now? A According to the date of my marriage.
- Q And you want to correct your former testimony to that effect?
- A I want it as near right as I can get it. It isn't anything to me only these people got me here and I want to tell it right as I can.
- Q You don't know how many years they lived in Polk County, Arkansas?
- A No sir.
- Q But you know Elijah Phillips and his wife Sidney owned a farm down there? A Yes sir.
- ON BEHALF OF THE COMMISSIONER:
- Q Who did you say Emily Weaver belonged to? A Phillips.
- Q Which Phillips? A Lige Phillips.
- Q When was the first time you ever got acquainted with Emily Weaver? A Along before the war, I just couldn't say what time.
- Q You know it was sometime then before the close of the war? A Yes sir.
- Q And during all the time you knew her she was living in Arkansas with Lige Phillips? A Yes sir until they come here.
- Q Was Lige Phillips a recognized Cherokee? A His wife was, he was a non-citizen.
- Q Cherokee citizen at that time? A Yes sir recognized as one when we come here.
- Q Did Lige Phillips have a place in the Cherokee nation before the war? A I couldn't say.
- Q Now the only property that you knew he had was in Arkansas? A Yes sir, I never had been to the Territory before the war.

- Q Do you know Tom Kirk? A Yes sir.
- Q Where was he living? A With the old man's family, he was a son fo Emily Weaver.
- Q Did she have any more brothers and sisters than Thomas? A He aint her brother.
- Q Where was Thomas born do you know? A He was born in Arkansas I think. I know he was a boy when I first remember him.
- Q When was the first time you ever came to the Cherokee Nation and who was with you the first time you come? A The first time I come was me, father and my grand-mother.
- Q There was just three of you? A It seems to me ther ewas some others, there was quite a bunch of us cherokees came up here to locate and look around.
- Q How long did you stay at that time? A Just about a week.
- Q Then you went back to Arkansas? A Yes sir.
- Q How long did you stay then? A I couldn't say.
- Q About how long, your best judgment? A Probably a month.
- Q Then did you start back to the Cherokee Nation? A Yes sir.
- Q Wasit at that time Emily Weaver come with you? A She didn't start then at that time, we come on up to Sculleyville, County and my father went back and got my grand-mother and these slaves.
- Q On the ~~first~~ third trip Emily Weaver was with you? A Yes sir.
- Q Now were you married at that time? A I think I was.
- Q Are you sure about that? A I think me and my ~~mother~~ woman got married on the first trip we moved up to Sculleyville County.
- Q On your first trip or on your first return? A No not the first trip, it was the second trip.
- Q The third trip you came back with Emily Weaver and these other colored people? A Yes sir.
- Q Now how lofjg do you think you had been married before you came along with Emily weaver? A I was married in the fall, I think to the best of my judgment, we started on in february following is the best I can remember.
- Q Do you remember the treaty of Fort smith? A No sir, I don't.
- Q Have you ever heard about it? A Yes sir I have heard about it, was the t the treaty of '66?
- Q Did you hear of the treaty of Fort Smith spoken of at that time? A I don't remember whether I heard of it or not.
- Q Do you remember of hearing it spoken of in Arkansas or in the Cherokee nation? A It seems like to me it was after we came, I would not be positive about that. A I know I heard the treaty spoke of but I couldn't say just when it was.
- Q Now I want you to tell me where you heard this treaty spoken of, was it in Arkansas or in the Cherokee Nation? A Dog if I can remember now about that, I would not be positive whether it was after or before we come here.
- Q How soon after you came to the Cherokee Nation that your oldest child was born? A My oldest child wasn't born in the Cherokee Nation.
- Q Where was your child born? A My woman went back to her sister in Arkansas. We come up in the spring and my wife went back to her sister in the fall and the child was born along in the winter like.
- Q Is that child living? A Yes sir.
- Q What is the name of that child? A Catherine Murphy now.
- Q That was the fall after Emily Weaver came here to the Cherokee Nation? A Yes sir I guess it must have been.
- Q Emily weaver came here the spring of the year and your child was born in the fall of the same year? A I think it was to the best of my knowledge.

BY MR. HASTINGS:

- Q Was your wife with you when you applied to be enrolled yourself at Vinita on September 21, 1900? A No sir, she was not with me.
- Q Had you talked to her about your marriage so that you refreshed your memory about it? A I guess I had.
- Q You stated at that time in answer to this question, "How long have you lived in the Cherokee Nation," A "Ever since 1868," is that correct? A Well now I don't know, it seems to me like we started in the fall after the war closed, that is my best memory about it. We come into the Choctaw Nation and then the next spring.
- Q Now the judgment of the Commission after you gave your testimony on September 21, 1900, recites the fact, "His wife was married to him in 1868," was that what you told the Commission at that time? A Yes sir, I guess it was.
- Q Wasn't your memory fresher then having talked it over with your wife when you married? A It looks reasonable.
- Q You haven't had occasion to talk this question over as to when you and your wife married recently? A No sir never thought anything about it.
- Q But you did have occasion to talk it over with her before you went to Vinita? A Yes sir had to then.
- Q Don't you think that this testimony that you gave under date of September 21, 1900, was more nearly correct by reason that you talked it over with your wife? A Yes sir.

MR. HASTINGS:

I desire to have introduced in this case the testimony of the witness, Thomas Kelley, taken before the commission at Vinita, I. T., on September 21, 1900, the same ~~marriage~~ being found in Cherokee straight case 3167, for the purpose of showing when the witness testified when he came back to the Cherokee Nation after the war and also for the purpose of showing when he was married to his wife, as the witness now states that his memory was fresher at that time having talked it over with his wife.

MR. COUCH:

No objection.

ON BEHALF OF THE COMMISSIONER:

The applicants offer in evidence the supplemental testimony of Thomas Kelley taken October 20, 1902, at Muskogee, in the case of Thomas J. Kelley for himself and his wife and children, Cherokee straight case No. 3167.

MR. HASTINGS:

No objection.

BY MR. COUCH:

- Q Mr. Kelley how old did you say you were? A I couldn't state my age correctly. I must be about 57 years old the best I could get at it.
- Q You say that you can't read nor write? A No sir, I don't know a letter.
- Q You remember very distinctly when the civil war closed? A Yes sir.
- Q About how old were you at that time? A I was a young man.
- Q Now you say you were acquainted with Emily Weaver during the war? A Yes sir.
- Q How many children did she have? A I couldn't say.
- Q What was her oldest child's name? A We called him Rant Crittenden.

- Q Do you know who his father was? A Said to be old Mose Grittenden.
- Q Who was her next oldest child? A I don't know whether it was Mary or Lewis, one of them two.
- Q You knew them two down there? A Yes sir.
- Q Now do you know who the next one way? A Seems to me like they called her Lottie.
- Q Lottie or Tom? A Tim, that is the one.
- Q How large was Tom? A Just big enough to stay on a horse and ride.
- Q Do you remember exactly the time you left Polk County, Arkansas?
- A I couldn't state.
- Q What time of the year was it? A It was in the fall of the year.
- Q Was that the same year peace was made? A That is the best of my judgment.
- Q Who left there with you? A Just my father and our family, brother-in-law of course, and one of my oldest brothers that was married.
- Q When you left there where did you go to? A Went to Souleleyville County, Choctaw Nation, and then we went back and got grand-mother and the se slaves
- Q How long did you stay over there in the choctaw nation before you went back to Polk County? A We went there in the fall and the next fall we started back with the whole outfit to the Cherokee Nation.
- Q Now you went over there in the fall of 1865 in the Choctaw nation?
- A Yes sir.
- Q Now when did you go back after Emily Weaver? A The next fall.
- Q How did you happen to stop over there in the Choctaw nation?
- A Our stock got poor and we just stopped for the winter and then went back after grand-mother and the se slaves.
- Q After you went back after them you came right on to the Cherokee Nation? A Yes sir.
- Q Now which trip was it you married? A The last trip we made up here.
- Q It was after you came over in the Choctaw nation and went back to Polk County, Arkansas? A Yes sir.
- Q Now it was the next fall after you first left Polk County, Arkansas? A Yes sir I think it was.
- Q How did you make that trip from the Choctaw nation to the Cherokee nation? A We come right up to Fort Smith just before we got to Fort Smith we turned west and crossed the river up the river from Fort Smith just 12 miles from where we made the little crop, over into the Cherokee nation.
- Q That was the fall that ou were married was it? A It was along in the spring after I was married in the fall.
- Q What kind of teams did you have? A We had ox teams mostly I believe, one or two mules.
- Q Did you bring any stock with you? A Yes sir, hogs, cattle, and a few sheep.
- Q What time of the year as well as you remember that you left the Choctaw Nation? A I think right about the first days of February.
- Q That must have been now in the year 1867? A It might have been right along there.
- Q Do you remember what kind of weather it was? A It was rainy, wet, bad weather, I know we were water bound a whole lot.
- Q Had the grass put out any? A No sir.
- Q Trees hadn't leaved out? A No sir, at the time we got here the grass had begun to spring up.
- Q Did you lay over on that trip any? A Yes sir.
- Q Where was that? A Well the laying over, down here just the other side of Fort Smith we had two teams stolen, we stayed there about a week. Then we got across the river on Lee's Creek we were water bound there a week or two. I couldn't say anything about the month or time we were on the road.

- Q Were you driving your hogs? A Yes sir.
Q Did you have any sheep? A Yes sir I think grand-mother had a bunch of sheep.
Q You think you were detained on Lee's Creek two or three weeks?
A Must have been a week anyhow.
Q Did you stop over any other time before you got up to Goingsnake District? A Yes sir.
Q How long were you making that trip? A I couldn't state.
Q About how long? A It must have been three weeks or more.

BY MR. HASTINGS:

- Q You mean you were that long in making the entire trip? A Yes sir.
Q How far is Westville from Fort Smith? A 60 or 65 miles.
Q Fort Smith is right on the border of the line between the Cherokee and Choctaw nations? A Yes sir.
Q Was that the Cherokee nation then, westville the point to which you went, or the neighborhood to which you went, was some 60 or 65 miles north of the Cherokee southern boundary line, now how long did it take you to go that distance? A It must have been some 3 or 4 weeks.
Q That was on the whole trip now I mean in the Cherokee Nation?
A I couldn't say positive.
Q You say when you got up there the grass was coming out and the leaves were putting out? A Beginning to put out.
Q Do you think that was as late as the first of April? A It was in March for we sowed a few oats and put out a corn crop.
Q That was sometime in March, it might have been as late as the first of April? A It might have been but I think it was in March.
Q Was Tom Kirk himself a slave in Arkansas? A He was born there.
Q Do you know whether he was regarded as a slave himself or not?
A I don't know whether he was born before the war or during the war.
Q Do you know whether Emily was a slave or not? A Yes sir.
Q Slave of Phillips? A Yes sir.
Q And owned a farm in Arkansas when the war came up? A Yes sir.

BY MR. COUCH:

- Q What kind of a farm did Phillips own down there? A A bottom farm.
Q Do you know whether he owned it or just rented it? A He didn't have it rented, the old man was in possession of that farm and sold it out, I know that to be a fact.

BY MR. HASTINGS:

- Q Who did he sell it to? A To a fellow by the name of Hughes.

ON BEHALF OF THE COMMISSIONER:

- Q Do you know what year he sold the farm? A No sir.
Q Did he sell it before he came to the nation? A Just a short time I couldn't say.
Q You are positive of that? A Yes sir.
Q Is Phillips living? A No sir.
Q His wife living? A No sir.
Q Any of his children living do you know? A I think there are two of them living.

BY MR. HASTINGS:

- Q What are their names? A Charley Whitmire's wife and Frank Phillips is the other one.

ON BEHALF OF THE COMMISSIONER:

- Q Were either of those born before they came to the nation? A Yes sir.
- Q How old are they, about your age? A No sir, not quite as old as I am.
- Q And they came along with you and Emily Weaver? A No sir. I have been trying to study up when they come, whether it was before or after, I don't know. We all came I think about in the same year but we didn't come together, I don't know whether they were ahead of us or behind us.
- Q Did you own any property yourself in Arkansas? A No sir.
- Q Did your mother? A They never had any deeded land at all, they owned a place there, just settled up.
- Q Did they settle it? A Yes sir, my father sold it.
- Q The same year you came here? A I don't remember whether it was the same year or before.
- Q Was the deed recorded? A He had no deed at all.
- Q Didn't he deed it to the other man? A No sir, just give him a quit claim title.

WITNESS EXCUSED.

ANTHONY CRITTENDEN, being first duly sworn, testified as follows:

BY MR. COUCH:

- Q What is your name? A Anthony Crittenden.
- Q What is your age? A I don't know my age.
- Q About how old are you? A I must be about 55 or 56.
- Q Where do you live? A In Canadian District.
- Q Cherokee Nation? A Yes sir.
- Q Are you acquainted with Emily Weaver? A Yes sir I ought to be.
- Q What relation are you to Emily Weaver? A She is my mother.
- Q How large was you when the war closed? A I don't know, I can recollect there being a war going on, that is all I can recollect about the war.
- Q You were a pretty good size boy were you? A Yes sir.
- Q Where did you live when the war closed? A I lived in Polk county, Arkansas.
- Q How long after the war closed until you left there? A It was in 1865 when I left there.
- Q How do you know it was 1865 Rant?

ON BEHALF OF THE COMMISSIONER:

- Q Have you ever been known by the name of Rant? A Yes sir that is the nick name they give me.

BY MR. COUCH:

- Q How do you know that it was in 1865 that you left there? A Old Aunt Lydia told me it was in 1865.
- Q Who was that, Aunt Lydia Quinton? A Yes sir.
- Q When did you talk with her about the time you left, after you came back to the Cherokee Nation? A Yes sir I lived with her until I was grown.
- Q When you left Polk County where did you go to? A Went to the Choctaw Nation.
- Q How long did you remain in the Choctaw Nation? A We left there in 1866.
- Q What time of the year? A It was in the fall like, I don't remember what time in 1866.

- Q How long now did you stay over there in the Choctaw Nation? A I don't recollect how long we were there.
- Q About how long was it? A We started from the Choctaw Nation but didn't travel more than a day before we lost the horses.
- Q Had you crossed the Arkansas River when you lost the horses?
- A No sir.
- Q You stayed there awhile then before you crossed? A Yes sir we couldn't find them, we rigged up a team and come on.
- Q What time of the year was it? A It was in the winter as well as I can recollect.
- Q Was it cold? A Yes sir, pretty cold.
- Q Do you remember whether there was any snow on the ground after you left the Choctaw Nation or not? A No sir.
- Q Well how long were you making that trip now from the Choctaw Nation before you stopped in Goingsnake district in the Cherokee Nation? A It was in 1867 when we got to where we were going.
- Q How do you know it was 1867? A The old lady told me it was.
- Q She told you it was in 1867? A Yes sir.
- Q What time of the year in 1867 was it, in the winter? A I don't know what time it was, I ~~think~~ think it was along in the spring.
- Q In the early spring was it? A Yes sir, we got here in time to put in oats.
- Q Had the trees put out when you got up there? A No sir the trees hadn't put out as well as I can recollect.
- Q Do you think it was as early as January when you started across the Arkansas River in 1867? A It must have been, we drove hogs, and you know how hogs travel.
- Q Were you detained on the road from any cause? A High water sometimes.
- Q Where was that high water? A On Lee's Creek.
- Q Is that in the Cherokee Nation? A Yes sir.
- Q How long were you detained there by high water? A Not more than two or three days at a time, maybe a day and maybe sometimes two days.
- Q Now according to your best judgment how long were you making that trip from the Choctaw Nation? A I couldn't hardly tell.
- Q Were you as much as a month and a half? A It might have been a month and half, I couldn't say for certain, it might have been a little longer, I couldn't say.
- Q Were you a slave? A Yes sir I guess I was.
- Q Who did you belong to? A Old man Phillips. Old man Lige Phillips.
- Q What was his wife's name? A Sidney Phillips.
- Q They were Cherokee citizens? A She was a Cherokee, he was a white man.

BY MR. HASTINGS:

- Q Where were you born? A Now you are too hard for me, I don't--
- Q Where were you told you were born? A I never did hear them say where I was born.
- Q You never heard them say where you were born? A No sir.
- Q Were you born in Polk County, Arkansas? A I don't know whether I was or not.
- Q When you could first remember you were living there? A Yes sir.
- Q And you are now about 55 or 56? A Yes sir.
- Q Then you were born along in 1849 or '50? A Yes sir I might have been born in Polk County, I couldn't say where it was.
- Q Is it your understanding you were born there? A I guess I was, I couldn't say where I was born.
- Q Then your mother was living there with Elijah Phillips when you were born? A Yes sir.
- Q And she never came to the Cherokee Nation until after the war?
- A No sir.

- Q Did Elijah Phillips own a farm there? A Yes sir.
- Q And he was living on it when the war commenced and had been ever since you could remember? A Yes sir I guess he had, he was living on it when I could recollect.
- Q Now for the purpose of testing your memory, when were you married? A It has been about 20 years ago.
- Q Do you know what year? A No sir I couldn't, I aint got no education.
- Q Can you read and write? A No sir.
- Q You don't know the years then? A No sir.
- Q Then you really don't know what year you come up here? A No sir.
- Q You don't know what month? A No sir.
- Q You know it was in the spring of the year? A Yes sir.
- Q Now don't you know that Lee's Creek is just a small spring branch and runs down in any two days? A You cross it I don't know how many times.
- Q I aint asking about how many times you cross it, I am talking about its size? A It is just a small creek.
- Q It is just a spring branch? A I never was at the head of it.
- Q It is just a small stream? A It isn't a big stream.
- Q Is there a place along down there that you couldn't run and jump across it? A I can find places that I couldn't jump it.
- Q How wide is it down there? A I never measured it to see how wide it is.
- Q Aint you got any judgment about it, you are under oath? A I know that I can't jump it.
- Q If you can't jump it you can estimate it? A I don't know exactly how wide it is.
- Q Estimate it? A It must have been about 6 or 7 feet, maybe 8 or 9.
- Q Now that is the only creek that detained you? A Yes sir it was, but there were some fords that were deep.
- Q How far is it from the neighborhood of Westville which you came to, to the south boundary of the Cherokee nation, down to the Arkansas River, about 50 or 60 miles? A I don't know, I expect it is.
- Q How long did it take you to come that 50 or 60 miles, a week?
- A It might have been, it might have taken us a week and it might have taken us 10 days, hogs travel slow.
- Q Is that your best judgment? A Yes sir.
- Q Week or 10 days? A Yes sir.
- Q And you don't know exactly what month you landed up there, it might have been March? A I think it was in February when we come there.
- Q You don't know about that? A No sir.
- Q What year is this? A I don't know.
- Q What year was the strip pay, ent? A I don't know that either.
- Q Do you know the year any one of your children were born? A No only from their age I have got them set down.
- Q Now you claim your citizenship by virtue of your father being a Cherokee, didn't you? A Yes sir.
- Q You didn't claim your citizenship through your mother? A Maybe I didn't.
- Q You claimed as a Cherokee didn't you? A Yes sir I did.
- Q Who is your father? A Old Mose Crittenden.
- Q He was a Cherokee? A Yes sir.
- Q And you claimed through him? A I put it in that way.
- Q And you put in that your mother was a white woman? A No sir.
- Q What did you put in that your mother was? A I don't recollect putting her in at all.

ON BEHALF OF THE COMMISSIONER:

- Q Did you come to the Cherokee Nation along with your mother?
A Yes sir.
- Q Did you come along with the witness that just testified, Thomas Kelley? A Yes sir, me, old man Kelley, and Tom came and old Aunt Lydia Quinton all came along together, we all come here together.
- Q How old were you at the time you started to the Cherokee Nation?
A I don't ~~think~~ have no idea, I guess I must have been 12 or 15 years old.
- Q Just between a boy and a man? A Yes sir.
- Q Now you don't remember ever living in the Cherokee Nation before that do you? A No sir.
- Q The time you first came here so far as you know, was that vtime? A yes sir.
- Q Have you lived here ever since? A Yes sir, I lived 6 years on Grand River, and then I moved back to Goingsnake and lived there two years, and then I have been down here in Canadian District.

This case was here continued by consent and agreement until July 27, 1905, at one o'clock P. M.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 24th day of July, 1905.

Myron White

Notary Public.

Chas. M. 348

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DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

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COMMISSIONER

501-10-10000

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JULY 27, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of EMILY WEAVER ET AL., as Cherokee Freedmen.

APPEARANCES:

For Applicants, R. H. Couch.

For Cherokee Nation, W. W. Hastings.

The following testimony was introduced on behalf of the Cherokee Nation.

JOHN W. ALBERTY, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A John W. Alberty.
Q What is your age? A 71.
Q What is your post office? A Westville.
Q Are you a Cherokee citizen by blood? A Yes sir.
Q How long have you lived in and around where Westville now is? A 71 years.
Q You lived there then before the war? A Yes sir.
Q And after the war? A Yes sir.
Q Did you know Elijah Phillips before the war? A Yes sir.
Q Where was he living when the war came up? A In Polk County, Arkansas.
Q How long had he been living there? A He left for Polk County, Arkansas immediately after the Emigrant payment, it was in, I reckon about 1852.
Q Did he come there with his effects? A Yes sir.
Q Was he registered as a citizen of Arkansas when the war came up? A Yes sir.
Q Did you know Nellie Coleman, a slave of his family before the war? A I didn't know a Nellie Coleman, I knowed a Nellie.
Q Did you know the mother of Emily Weaver? A Yes sir.
Q You knew this Nellie who was her mother? A Yes sir.
Q Where was she living when the war came up? A She was dead.
Q Where was Emily living? A In Polk County with Lige Phillips.
Q Had she been there ever since the removal of the Phillips family to Arkansas before the war? A Yes sir.
Q Where were you living immediately after the war? A No.
Q Yes sir? A I lived right on the place I am on now.
Q How far is that from Westville? A It is about 2 1/2 miles straight through, 3 miles the way the roads are.
Q Did you know Lydia Quinton? A Yes sir.
Q She was a Cherokee? A Yes sir.
Q Emily Weaver claims to have returned with her? A Yes sir.
Q Do you know when she returned to the Cherokee Nation after the war? A Yes sir, I think I do.
Q When did she come back? A She came here in February, 1868.
Q How do you know that? A I loaned her a wagon and team to move up there.
Q Was she any relation to you? A Yes sir.
Q What? A Second or third cousin.
Q Did you know her before the war? A Yes sir.
Q You grew up together? A No sir she was a older person than I was.

- Q I mean you were reared in the same neighborhood? A Yes sir.
- Q Did you know about her bringing Emily back with her? A Yes sir.
- Q Did she? A Yes sir.
- Q How far did they settle from you? A I guess about 2 or 3 miles, right on the road to Westville, a out 2 miles I guess.
- Q Now when did you return there after the war? A I came there, we started from Texas the first day of September and landed up there the first week in October.
- Q What year? A 1866.
- Q And you continued to live right in the vicinity of where Westville now is? A Yes sir, I lived on the place I am on and then moved up right where Westville is and stayed there 7 years.
- Q You have lived then continuously in the neighborhood of Westville both before the war and then since the fall of 1866? A Yes sir, I was raised in about 4 miles of Westville and have been there ever since, except what time I was off during the war.
- Q And you are positive it was in February or March of 1868? A Yes sir.
- Q You came back in the fall of 1866? A 1866.
- Q And you are certain it was not the next spring? A No sir.
- Q What makes you think that? A Because we had made a crop and Phillips came in the next fall, but the negro woman didn't come in until in the spring of 1868. Mrs. Quinton come when Lige Phillips did and stayed there looking around at the country trying to buy a place and I loaned her a wagon for her to move in and she never got back until February, 1868.
- Q Do you know a Tom Kelley who is a Cherokee? A Yes sir.
- Q Did he at that time live in Goingsnake District near Westville? A Yes sir.
- Q Do you know when he came back after the war? A It seems to me like he came back here in the fall of 1868, he didn't come back with Lydia Quinton. She came in the spring and they didn't come until the following fall. They lived right there around me.
- BY MR. COUCH:
- Q Did you know Emily weaver before the Civil War? A Well I never saw her after she was a small girl when Lige Phillips moved off with her and I never saw her after that until the war came up, and we went to Lige Phillips' in the time of the war and she was there.
- Q You were in Polk County, Arkansas, during the war? A Yes sir.
- Q Were you ever there before the war? A No sir.
- Q You never saw Lige Phillips in Polk County, Arkansas, before the war? A No sir, I saw him back here several times after the war and before the war, I say he came back here on several occasions before the war.
- Q You said awhile ago he left the Cherokee nation and went to Polk Count, Arkansas, how do you know he went to Polk County, Arkansas? A It is a great long story to go into the details of it. The family of negroes belonged to his son, there was a negro man in the outfit that went with Lige Phillips to Polk County, and he had a wife at Musgroves and he came back and Jack Phillips took him and Lige Phillips came back and had a law suit there.
- Q Where was that? A down in the Cherokee Nation there, they compromised the case.
- Q Now where were you at the time the war closed, Uncle Jack? A I was on Red River.
- Q On the Texas side? A No sir on the Choctaw side.
- Q What time do you say you returned to the Cherokee Nation? A We got here in October, 1866.
- Q How long had you been here when you first saw Emily Weaver? A Well we had made one crop and she moved here, never come until the winter was over and in February after we had made one crop.

- Q That was when you first saw Emily Weaver in the Cherokee Nation after the war? A Yes sir.
- Q Do you know where she was at the close of the war? A Yes sir.
- Q Where was she? A On Red River with Lige Phillips.
- Q Was that in Arkansas? A No sir, it was in the Choctaw Nation, Lige Phillips left there in February, 1866, and moved back to Polk County and made a crop there.
- Q Do you know whether or not he took Emily Weaver with him in 1866?
- A From Red River, yes sir.
- Q You never saw her from the time the war closed until you saw her in the Cherokee Nation? A No sir, not until she came there with ~~Lige Phillips~~ Lydia Quinton.
- Q Do you know what time Lydia Quinton left Polk County, Arkansas, or whether she was ever in Arkansas or not? A Yes sir, I knew she lived there, I don't recollect how many days it took her on the road but she was about the last of February or first of March before she returned there to father's place.
- Q Are you sure she came from Polk County, Arkansas, at the time you say you loaned her the wagon? A Yes sir.
- Q Do you know whether she lived in the Choctaw nation after the close of the war? A No sir, I don't.
- Q She might have lived down there in the Choctaw nation? A Yes sir she might have.
- Q You don't know anything about when she left Polk County, Arkansas?
- A I guess she left there with Lydia Quinton.
- Q Lydia ~~Quinton~~ Quinton is the one I am speaking of? A She wasn't long in the Choctaw Nation because she come with Lige Phillips, they come in 1867 and she stayed until up in the winter and went back and then she come on the next spring in February or March.
- Q She first came up there with Lige Phillips? A Yes sir.
- Q That was in the fall of 1867? A Yes sir.
- Q Do you know whether Thomas Kelley came along with them or not?
- A No sir, him and his father and among them came up horse back and were around there but I don't think they come with Lige Phillips, they come a little after that in 1867 and then went back to Polk County after their effects and to sell their land.
- Q Did they own land in Polk County, Arkansas? A Yes sir.
- Q Have a deed to it? A Yes sir.
- Q Did you ever see a deed? A No sir but I have seen the land a many a time.
- Q But you don't know they had a deed? A I am satisfied they had a deed for they sold it.
- Q Did you know Josh Robbins? A Yes sir.
- Q Was he related in any way to Emily Weaver? A I don't know, I couldn't say that.
- Q Did they live together after the war? A What is more than I could tell, I couldn't say, that they lived together, he had a wife.
- Q Who was his wife? A She was a white woman, I don't know what her name was.
- Q Did she live there with the family? A Yes sir.
- Q Where did they live? A With old Aunt Lydia Quinton.
- Q You don't know anything about him living with Emily Weaver? A No sir.
- Q Do you know anything about him dying? A Yes sir.
- Q When was that? A That was in about 1870.
- Q Was he a Cherokee, Mr. Alberty? A Yes sir.

Mr. Hastings: Comes now the representatives of the Cherokee Nation and object to this line of examination because it is irrelevant to show that these people are entitled as freedmen citizens of the Cherokee nation, and that is how they are claiming at this time.

Mr. Couch: We submit the applicant made application for citizenship in the Cherokee Nation as Cherokees by blood. The children of Emily Weaver claiming their rights to citizenship, being the children of Josh Robbins, a Cherokee citizen by blood.

On behalf of the Commissioner:
The objection will be noted.

- Q You say Josh Robbins died about 1870? A Yes sir, it must have been.
- Q Do you know whether Emily Weaver was a slave or not? A Yes sir.
- Q To whom did she belong? A She belonged to Jeff Phillips but she was taken from here by Lige Phillips, and when Jeff died Lige just kept her down there in Polk County. Willed to Jeff Phillips and Jack Phillips' mother by grand-father Wright.
- Q You don't know anything about whether Lydia Quinton moved away from Polk County, Arkansas, with this applicant, Emily Weaver, in the fall of 1865 or not, do you? A No sir, she didn't live there with her in 1865 I am satisfied, because they lived on Red River in February 1866.
- Q Then Emily Weaver was not in Polk County in 1865? A No sir.
- Q Do you know when Lige Phillips left Polk County with her? A He never left there with her, she came here with Lydia Quinton.
- Q You said awhile ago you saw Lige Phillips in Polk County, Arkansas, during the war, was Emily Weaver there then? A Yes sir.
- Q When did he live there? A He went down to Red River from there in 1863.
- Q How many children did Emily Weaver have? A I couldn't tell you that, she had several.
- Q From the time he left Polk County, Arkansas, in 1863, with this applicant, where did he live until the close of the war? A Right there on Red River in about a mile of where we did.
- Q You saw him continuously during that time? A Yes sir.
- Q And he left Red River about the time you left to come to the Territory? A No, he left just a month before me, father and Mose came here to make a crop. A They came in March, 1866, and he left in February for Polk County, Arkansas. Took all of his family there.
- Q You were never in Polk County, Arkansas, after you saw him down there on Red River? A No sir, I was never back there.
- Q All you know about it is what they told you? A Yes sir, and what I seen after they come back here.
- Q Then you don't know anything about how long Lige Phillips stayed in Polk County after he left Red River in 1866, do you? A No sir, only of him coming here in this country.
- Q That was the first time you saw him after he left Red River? A Yes sir.
- Q Was Aunt Lydia Quinton on Red River with these parties? A She stayed there a little while, she didn't stay there all the time, she didn't move there I don't think but she was there several times at Lige Phillips.
- Q Do you know who all came with Lige Phillips at the time you say he brought Emily Weaver back to the Cherokee Nation? A Aunt Lydia Quinton brought her back.
- Q At the time Aunt Lydia Quinton brought her back? A I don't recollect who all there was, Joe Weaver, and old Levi Robbins, and her and Emily Weaver, and I reckon that was about all that was in that crowd, and Kelley was her son-in-law and she come in the spring and he didn't come until the fall.
- Q Emily Weaver came before Kelley came back? A Yes sir.
- Kelley

- Q Then Emily Weaver got back to the Cherokee nation before Tom Kelley did? A Yes sir.
- Q Did you know Jim Phillips that lived out there on the prairie near Westville? A Yes sir.
- Q When did he die? A I couldn't tell without I-----, he didn't die until along in about 1891 or 1892.
- Q Do you know when he was married? A Well now we would have to go to the court record to see that, but it is my opinion that he was married in the winter of 1867.
- Q Who did he marry? A He married Patsie Paris.
- Q Do you know where they got married? A Yes sir, they went to,-- I was not where they got married, I know where they went to get married.
- Q Didn't they get married at Aunt Lydia Quinton's house? A No sir.
- Q Are you sure they didn't? A Yes sir, I am, I was over there in the evening and they were all laughing about it and said they had gone to Lever Thornton's to get married, he was the Judge.

W I T N E S S E X C U S E D.

GEORGE CRITTENDEN, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A George Crittenden.
- Q What is your age? A 60.
- Q Are you a citizen of the Cherokee Nation? A Yes sir.
- Q What is your post office? A Westville.
- Q How long have you lived in the vicinity of where Westville now is? A Was born there, lived there all my life excepting about four years during the war.
- Q When did you return there after the war? A We returned there in 1867.
- Q What time in 1867? A In the fall.
- Q Did you know Emily Weaver, the applicant? A Yes sir.
- Q You didn't know her mother? A No sir.
- Q Do you know Joe Weaver? A Yes sir.
- Q Did you know Lydia Quinton? A Yes sir.
- Q Is she any relation to you? A Said to be, yes sir.
- Q Do you know when she came back after the war when Emily Weaver came back? A No sir, I know when old man Joe Weaver came back. He made a crop with me in 1868.
- Q Do you know whether Emily Weaver came back with him or not? A No sir, I don't.
- Q Was that her husband? A She had a child by him.
- Q Had you ever seen Emily Weaver before you saw Joe weaver? A No sir, I saw him he used to live there before the war and then I went to Polk County and I saw him there in Polk County at Phillips.
- Q Did you see Emily Weaver down there? A Yes sir.
- Q Were they recognized as husband and wife? A I don't know how the records were but they were there together.
- Q Did you see Emily Weaver down there? A Yes sir.
- Q Do you know how long she had been in Polk County, Arkansas? A No sir I don't know, she was down there a good while, Jeff Phillips used to come up to his brother Jack's.
- Q Did the Phillips have a farm there? A Yes sir.
- Q Do you know whether or not Lige Phillips died there or not? A No sir, I think he died up here.
- Q Was he living down there before the war? A Yes sir, by his son coming back there said his father was living.

- Q You never went there until during the war? A No sir.
Q You mean to say you heard of their living down there by the visits backward and forward of his son? A Yes sir.
Q You found the Phillips down there during the war and found Emily Weaver living with them? A Yes sir.
Q You say that Joe Weaver used to live about your father's more or less before the war? A Yes sir, right across the Creek from where I live now.
Q And you remember the year he came back? A Yes sir, because I got him to make a crop with me.
Q Do you know where he came from in 1868? A He came from Polk County, whether he came with the Phillips I couldn't say.

BY MR. COUCH:

- Q Do you know Aunt Lydia Quinton? A Yes sir.
Q Do you know when she came back to the Cherokee nation? A No sir.
Q Was she there when you got there, was she? A No sir, she wasn't there when I got there.
Q When did you come back to the Cherokee Nation after the war? A In 1867.
Q What time of the year? A In the fall.
Q When did you first see her after you got there? A It was along in 1868 sometime.
Q Are you sure it wasn't 1869? A She came in 1867 and went back, it might have been 1869 when she came the second time.
Q She came up to the Cherokee nation and went back somewhere, do you know where she went to? A To Polk County.
Q Did she say so? A No sir, I heard people say so.
Q How did she come when she made the first trip up there? A I don't know.
Q Do you know how she went back? A No sir.
Q Where did she settle when she came to the Cherokee Nation up here? A The first time, I don't know whether she bought the place or not, she lived there where Lee Williams live now.
Q Did Emily Weaver live with her? A I don't remember whether Emily Weaver was there or not.
Q Do you know whether Emily Weaver was with her the first time? A No sir.
Q You don't know anything about when Emily Weaver came? A No sir.
Q She may have come back in 1866 after the war, for all you know? A No sir, she never done it.

BY MR. HASTINGS:

- Q You never saw her until you saw Joe Weaver? A No sir.
Q You saw her after you saw Joe? A Yes sir.
Q And she and Joe had taken up down in Arkansas? A Yes sir.

BY MR. COUCH:

- Q Did she live with Joe after they came back? A No sir, he had a white woman.
Q They didn't live together after Joe Weaver came back? A No sir.

W I T N E S S E X C U S E D.

WATT WHITMIRE, being first duly sworn, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.

- Q What is your age? A 53.
- Q Are you a citizen of the Cherokee Nation by blood? A Yes sir.
- Q How long have you lived in and about Westville? A We moved back after the war in the fall of 1866 and have been living there ever since.
- Q Had you been living there before the war? A South of Westville about 7 or 8 miles.
- Q In that vicinity? A Yes sir.
- Q Were you old enough to remember the Phillips before the war? A No sir.
- Q Did you go to Polk County, Arkansas, during the war? A No sir.
- Q You didn't know them during the war? A No sir.
- Q But you moved back there in 1866 after the war? A Yes sir.
- Q Do you know Emily Weaver the applicant? A Yes sir.
- Q You didn't know her before the war? A No sir.
- Q She didn't live in your vicinity? A Not as I know of, never heard of her.
- Q You know this identical person that is an applicant for citizenship? A Yes sir.
- Q Do you know where she come from after the war? A All I know is just what old man Crittenden told me.
- Q Old man Crittenden told you? A Mose Crittenden.
- Q When did you see her after the war? A The first time I recollect seeing her was in about 1868.
- Q Now what time in 1868? A It was either in January or February, as near as I recollect, I aint positive, which month.
- Q Who did she come there with? A She was either with the Phillips family when I first saw her, with Elijah Phillips family.
- Q Do you know whether they had recently come in or not? A Yes sir they had just come in because father called my attention to it, because he said your old Uncle Mose Crittenden has been gone from this country a good while and just got back.
- Q What was your understanding where they come from? A Polk County.
- Q Arkansas? A Yes sir.
- Q Do you know whether or not Lydia Quinton come at that time? A Yes sir, the Quinton family, the Kelley family, and the Phillips family.
- Q How far did they settle from you? A The Phillips family about two miles north of father's.
- Q I mean Emily Weaver? A It was between where father lived and Westville, I guess it must have been some 5 or 6 miles from father's.
- Q Were they living there in the fall of 1866 when you people came back? A No sir.
- Q Was Emily Weaver there during the war? A No sir the first I recollect of her was in 1868.
- Q Could she have been living in that neighborhood there without you seeing her? A I think not because we passed that road a good deal.
- Q Was Lydia Quinton related to you in any way? A Yes sir, she was a relation of my father's.

BY MR. COUCH:

- Q How old do you say you are? A 53.
- Q And you say you never knew Emily Weaver before the Civil War? A Yes sir.
- Q You first knew her in Polk County, Arkansas? A No sir.
- Q You were not in Arkansas during the war? A No sir, I never knew her until after the return here in 1868.
- Q Where did you live during the war? A We first moved to Cane Hill and stayed there awhile and then we moved to the Choctaw Nation, and then to Red River.
- Q What time did you return to the Cherokee Nation? A In the fall of 1866.

- Q Were you and Uncle Jack Alberty in the same neighborhood down on Red River when the war closed? A I don't recollect, there was a good many of the Alberties but I don't recollect which ones it was, I recollect Will, John, Alberty, and whether Uncle Jack lived there I don't know.
- Q Did you know Lige Phillips down there? A No sir.
- Q Do you know whether he lived any where in that neighborhood or not? A No sir, I don't.
- Q Were you pretty well acquainted around in the neighborhood there on Red River? A Yes sir.
- Q You never heard of Lige Phillips living down there? A No sir.
- Q Never heard of Emily Weaver being down there? A No sir.
- Q You knew of Uncle Jack Alberty's father there? A Yes sir.
- Q Did he live there at that time? A I don't know where he lived, I don't recollect whether he lived in my neighborhood or not.
- Q Was he living at that time? A I guess so, he died since the war.
- Q You don't recollect whether he lived there or not? A No sir.
- Q You don't remember of seeing Uncle Jack Alberty there on Red River at all? A Yes sir, I saw him but I don't know where he lived.
- Q You never did see Lige Phillips there? A No sir, never knew him until since the war.
- Q When did you first see him after the war? A The first time ever I saw him was in 1868, he bought a place there.
- Q Do you know where he came from at that time? A Only what I was told.
- Q Do you know who ~~hangok~~ all came with him when he came up there? A Old Uncle Mose Crittenden told me several time. His sister, Lydia Quinton, and Joel Kelley.
- Q You say they all came there together? A Yes sir that is what old Uncle Mose Crittenden told me?
- Q You recollect then of seeing Emily Weaver and these parties there in 1868? A Yes sir, the first I ever saw her was at Lige Phillips house.
- Q You don't know where she came from? A Only what I was told.
- Q She might have been there a year or two before that and you never knew it? A She might have, I never saw her.
- Q Do you know whether she ever lived in the Choctaw Nation or not? A No sir.
- Q You never saw Aunt Lydia Quinton up there in the Cherokee nation until she came there with Kelley, Lige Phillips, and others? A No sir, that is the first I saw her.
- Q Do you know anything about how they came? A I recollect they were living in--moving in there in wagons.
- Q Do you remember what kind of teams they had? A No sir, but to the best of my recollection they had some ox teams because when Phillips bought this place he paid for it with a yoke of oxen.
- Q Do you know where Joe Starr lives? A Yes sir.
- Q Do you know where the old lady Lydia Quinton, and Emily Weaver or any of these parties that came back to the Cherokee nation ever stop there about the Joe Starr place or not? A No sir, I don't.
- Q They might have stopped there? A If they did, I never knew it.

BY MR. HASTINGS:

- Q If Lydia Quinton and these people were relatives of yours could they have lived in that neighborhood without your knowi t it for a year or two? A No sir, I think not.
- Q Then you don't think they could have lived there for a year or two without you know it? A No sir, I think not.
- Q You say you saw John W. Alberty, commonly known as Jack Alberty, but you don't know what particular place he lived there on Red River? A No sir.

WITNESSES EXCUSED.

JOHN W. ALBERTY RECALLED:

BY MR. HASTINGS:

Q You know this witness Watt Whitmire?

Mr. Couch: We object to the introduction of this witness because he has sat here in the room and heard all the testimony of the other witnesses.

Mr. Hastings: I desire to re-introduce the witness, John W. Alberty, for the purpose of showing that he was upon Red River, but lived at a distance of some 25 or 30 miles from the other witness, Watt Whitmire, and to show that there is no contradiction whatever in their testimony. I desire to say in this connection that the room was not asked for with these witnesses, although I admit that I, myself, following my usual custom just asked them to remain outside of the hearing of the testimony of the other witnesses.

Mr. Couch: We object to the introduction of John W. Alberty as a witness and for grounds of objection state that he was placed under the rule at the beginning of the case by the Attorney for the Cherokee Nation and acquiesce in by ourselves. That after he was placed on the stand and had testified he remained in the room in the hearing of the other witnesses that testified. Counsel for the Cherokee Nation seeks to introduce him as a witness again for the purpose of clearing away any conflict that may be in the testimony formerly given by him and other witnesses for the Cherokee Nation.

On behalf of the Commissioner: The objection will be noted, and the testimony taken.

BY MR. HASTINGS:

Q How far did you live from Watt Whitmire? A I reckon it was 35 miles, we lived down at the mouth of the Kiamish, he lived up at the mouth of the Island Bayou.

Q You both did live on Red River? A Yes sir.

Q But about 35 miles apart? A Yes sir.

BY MR. COUCH:

Q You stayed here in the house and heard Watt Whitmire testify?

A Yes sir.

Q You heard it all? A Yes sir.

ON BEHALF OF THE COMMISSIONER:

The Attorneys for the applicant and the Cherokee Nation submit the testimony offered in this case, and the same will now be closed.

-----oOo-----

George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 1st day of August, 1905.

Bruce C. Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Q7ms

In the matter of the application for the enrollment of Emily Weaver, et al., as citizens of the Cherokee Nation, consolidating the applications of:

Emily Weaver, et al.,	Memoranda	348
Thomas Kirk,	Cherokee D	963
Charlotte Newton,	Cherokee D	1220
Peggie Whitnair, et al.	Cherokee R	618.

--:--

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee citizens were made to the Commission to the Five Civilized Tribes by Emily Weaver for herself and minor child, Lottie Robbins; by Susanna Kirk for, among others, her husband, Thomas Kirk, the others included in said application having been heretofore disposed of, their rights to enrollment as Cherokee citizens will not be considered in this decision; and by Charlotte Downing for herself and illegitimate minor children, Peggie Whitnair and Henry Bushyhead. Subsequent to filing her application herein the applicant, Charlotte Downing, was, on December 7, 1901, married to one John Newton, and she will now be listed for enrollment as Charlotte Newton. Copies of the testimony taken on July 19, 1900, at Westville, Indian Territory, in re application for the enrollment of Lewis Weaver, et al., as Cherokee Freedmen, case No. 1227, and on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in re application of Thomas Kelly, et al., for enrollment as Cherokee citizens, case No. 3167, are filed herewith and made a part of the record herein.

THE RECORD FURTHER SHOWS: That, under date of October 8, 1901, the Commission to the Five Civilized Tribes rendered its

decision in certain Cherokee Memorandum cases, among others that of Emily Weaver, et al., Memoranda case No. 348, refusing, under the act of May 31, 1900 (31 Stat., 221), to assume jurisdiction of the application for the enrollment of Emily Weaver and her minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation, and that said decision was, on January 3, 1902 (Departmental letter I.T.D. 5698-01), affirmed by the Department. And that subsequent thereto the said Emily Weaver and Lottie Robbins were identified on the Cherokee Census roll of 1896, and upon request of the Commission, the record in this case (Memoranda 348) was, on August 2, 1902 (Departmental letter I.T.D. 4641-1902), remanded by the Department "in order that a decision may be prepared in conformity with the facts as now shown, and for the purpose of taking additional testimony, if necessary."

THE RECORD FURTHER SHOWS: That all the applicants herein, in their original applications for enrollment applied as Cherokees by blood. In Departmental letter of November 20, 1903 (I.T.D. 3484-02), it was held that the said Emily Weaver, though of one-half Cherokee blood, could not be classified as a Cherokee by blood, but must be classified as a Cherokee freedman. This is considered authority for classifying as a Cherokee freedman, not only Emily Weaver, but also the applicant, Thomas Kirk, son of the said Emily Weaver, who, the evidence shows, was born about the year 1860. Said Departmental letter further rules that an illegitimate child of Emily Weaver supposed to have been born subsequent to the close of the rebellion and prior to the making of the 1880 roll, although of three-fourths Cherokee blood, identified on the Cherokee Census roll of 1896 as a Cherokee by blood, and whose alleged father is identified on the Authenticated Cherokee tribal roll of 1880 as a native Cherokee, was "not entitled to enrollment as a Cherokee by blood" and "took the status of her mother." This is considered authority for classifying as Cherokee freedmen the applicants, Charlotte Newton and Lottie Robbins.

It is not intended in this decision to consider or adjudicate any rights to Cherokee citizenship the applicants Thomas Kirk and Charlotte Newton, formerly Downing, may have acquired by virtue of their marriage to duly recognized citizens by blood of the Cherokee Nation, but only such rights to enrollment as the applicants herein possess as Cherokee freedmen, or Cherokees by blood.

Under the evidence in this case, and after an examination of the records in Cherokee Freedmen cases Nos. 1227 and 1259, and Cherokee cases Nos. 351 and 356, and the Cherokee tribal rolls of 1880 and 1896, it is respectfully submitted that the attached diagram, relative to material facts in this consolidated case, is approximately correct.

THE EVIDENCE IN THIS CASE SHOWS:

- (1) That the applicants, Emily Weaver and Thomas Kirk, are mother and son and were the slaves of a Cherokee citizen at the commencement of the Rebellion; that during said rebellion they were living outside the limits of the Cherokee Nation, but later returned thereto and established a residence therein, and have since continuously resided in said Nation, and are identified on the Cherokee Census roll of 1896 as Cherokees by blood.
- (2) That the applicants Charlotte Newton and Lottie Robbins are illegitimate children of the said Emily Weaver and one John Robbins, deceased, who was a Cherokee by blood, were born subsequent to the close of the rebellion and prior to the year 1880, have continuously lived in the Cherokee Nation since birth, and are identified on the Cherokee Census roll of 1896 as Cherokees by blood; that the minor applicants, Peggie Whitmire and Henry Bushyhead, are illegitimate children of the applicant Charlotte Newton, were born since 1890, have continuously lived in the Cherokee Nation since birth, and the former is identified on the Cherokee Census roll of 1896 as a Cherokee by blood, and the latter by a birth affidavit filed herewith and made a part of the record herein. (It is asserted that the minor applicants Peggie Whitmire and Henry Bushyhead, are children of Ellis Whitmire, deceased, and Bob Bushyhead, who, it is alleged, are Cherokees by blood)
- (3) That none of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1880, and possess no rights to enrollment as Cherokee freedmen or as Cherokees by blood, other than as above indicated.

In view of the foregoing it is considered that in order to properly adjudicate said applicants' rights to enrollment as Cherokee citizens, on September 1, 1902, the only questions to be determined are:

Did Emily Weaver and Thomas Kirk return to the Cherokee Nation, after the rebellion, and establish a residence therein within the time specified in the Whitmire decree? and

Are the minor applicants, Peggie Whitmire and Henry Bushyhead, the children of fathers who were duly recognized citizens of the Cherokee Nation?

EMILY WEAVER, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified, in part, as follows: I am about 60 years old, my post-office is Westville, I was born and raised in the Cherokee Nation, have always made my home here, and have never lived in any other place. I was an applicant for enrollment as a Cherokee citizen in 1896, but was denied. (The records of this office fail to show that this person was an applicant before the Dawes Commission, for citizenship in 1896).

CHARLOTTE NEWTON, applicant, appeared before the Commission on September 11, 1901, at Fort Gibson, Indian Territory, and testified as follows: I am about 30 years old. My post-office is Westville, Indian Territory, and I am the daughter of Emily Weaver and Josh Robbins, deceased, who was a Cherokee by blood. I have two children, Peggie Whitmire and Henry Bushyhead, aged six and three years. Ellis Whitmire and Bob Bushyhead, a Cherokee by blood, are the fathers of my two children. I was not married to either of these men, and never lived with Ellis Whitmire, but did live with Bob Bushyhead about two months "when he went away and left me."

CHARLOTTE NEWTON, applicant, appeared before the Commission on October 18, 1902, at Tahlequah, Indian Territory, and further testified as follows: I have two illegitimate children, Peggie Whitmire and Henry Bushyhead. Ellis Whitmire, who died about five years ago, and Bob Bushyhead, both Cherokees by blood, are the fathers of my children. I never lived with Ellis Whitmire, but did live with Bob Bushyhead three or four months.

CHARLOTTE NEWTON, applicant, appeared before the Commission on November 15, 1904, at Muskogee, Indian Territory, but added nothing material to her former testimony.

EMILY WEAVER, in behalf of Charlotte Newton, same date and place, testified, in part, as follows: I was on Red River, towards Texas, during the war. After the rebellion I returned to the Cherokee Nation with Aunty Liddy Quinton, and for sometime thereafter lived with her. I don't know what year this is, don't know any years at all, and never did know any.

LEWIS WEAVER, in behalf of the applicant, Charlotte Newton, same date and place, testified as follows: I was born in '51, '2 or '3, I don't know which, I know I am about 52 or 53 years old, and I live near Westville, Going-Snake District, Cherokee Nation. I am a son of Emily Weaver. My mother had four children born to her before the war: "Rant (Anthony), Tom and Mary and me" and four born since the war: Rachel, Charlotte (Newton), and Lottie Robbins and Sam King, who is dead. Sam was younger than Charlotte and Lottie. I don't know how long my mother lived with the father of Sam King. So far as I know my mother was never married to any of the fathers of her children.

ISRAEL CRITTENDEN, in behalf of applicants, same date and place, testified as follows: I am about 50 or 60 odd years old, and I live near Westville, Indian Territory. I have known Charlotte Newton about all her life. Also know her mother, Emily Weaver, who is my half-sister, same father. I became acquainted with Emily Weaver during the war. I knew Josh Robbins, became acquainted with him in Polk County, Arkansas, during the war. I returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with my aunt, Liddy Quinton, about two miles south from where Westville is now situated, in Going-Snake District, Cherokee Nation.

ANTHONY (RANT) CRITTENDEN, in behalf of applicants, appeared before the Commission on November 16, 1904, at Muskogee, Indian Territory, and testified as follows: I am 55 years old and live near Hereford, Canadian District, Cherokee Nation. My mother, Emily Weaver, and Josh Robbins began living together in Going-Snake District, Cherokee Nation, about two years after the war closed, and lived together till Josh Robbins' death, several years later. Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

(The records of this office fail to show that application for enrollment as a Cherokee citizen has been made for this witness, and he cannot be identified on any Cherokee roll in the possession of this office).

SUSANNA KIRK, in behalf of the applicant, Thomas Kirk, appeared before the Commission on December 13, 1900, at Tahlequah, Indian Territory, and testified as follows: I am 35 years old, am a Cherokee by blood, and live in Tahlequah District. My husband's name is Tom Kirk. We were married in 1882. He is about 40 years old, and is a son of Emily Crittenden (Weaver), and has lived in the Cherokee Nation all his life.

THOMAS KIRK, appeared before the Commission on February 21, 1905, at Muskogee, Indian Territory, and testified as follows: My mother's name is Emily Weaver and my father was named Robert Kirk, so my mother told me, I never saw him.

EMILY WEAVER, applicant, appeared before the Commission on June 9, 1905, at Muskogee, Indian Territory, and testified as follows: I don't know my age, I guess I am about 50. My post-office is Proctor, and I live in Going-Snake District. I returned to the Cherokee Nation the year after peace was made, but I can't remember what year that was. I returned with Will and Liddy Quinton, Mrs. Fulton, Tom Kelly and Wyley Kelly and Rosanna and Nancy John.

LEWIS WEAVER, in behalf of applicants, same date and place, testified as follows: I am going on 50 years old, and I

live in Going-snake District. Emily Weaver is my mother. After the war closed we (my mother and I) returned to the Cherokee Nation "with old Aunt Liddy Quinten". "We started back the next year after peace was made, that is, I believe it was, but I am not certain."

THOMAS KELLY, in behalf of applicants, appeared before the Commission on July 20, 1905, at Muscogee, Indian Territory, and testified as follows: I am about 87 years old and live in Coowescoowee District. I became acquainted with Emily Weaver in Polk County, Arkansas, and have known her since before the war. The fall after the war closed we, Emily Weaver, her children, myself and others, started for the Cherokee Nation and arrived in Going-snake District in February, '66. I was born in Sebastian County, Arkansas, moved from there to Polk County, Arkansas, and never lived in the Cherokee Nation prior to my removal here after the war. Elijah and Sidney Phillips (Cherokee owners of Emily Weaver) had been living in Polk County, Arkansas, for several years before the war came up. "I was married in '67 or '68, I think it was in the fall of '67 ---no, it was the fall of '66". I was married in Greenwood, Sebastian County, Arkansas, in the fall and came to the Cherokee Nation the next spring. We were on our road to the Cherokee Nation when I married. We had been to the Cherokee Nation before, but Emily Weaver was not with us. She came with us in the spring of '67. I can neither read nor write. My memory is not good and it might be such a thing that I am mistaken a year or two as to these dates. I know George Crittenden, who lives at Westville. I guess he knows when we came to the Cherokee Nation. Jack Alberty came to the Cherokee Nation ahead of us. I think Emily had five or six children when we came to the Cherokee Nation as above indicated. I was mistaken when I said Emily Weaver came to the Cherokee Nation in the spring of '66, it was in the spring of '67. I may be mistaken as to the year I was married, it may have been as late as the year 1868, but I don't think it was that late when we came to the Cherokee Nation. I know Tom Kirk. He was born in Arkansas, and was just big enough to ride a horse when we came to the Cherokee Nation after the war. The first time I came to the Cherokee Nation after the rebellion my father and grandmother were with me, I stayed about a week and went back to Arkansas, where I remained probably a month and we then started to the Cherokee Nation the second time, and came to Skullyville (Choctaw Nation) and made a crop there. My father went back from there and got my grandmother and these slaves. It was our third trip that Emily came with us. "I think me and my woman got married on the first trip". "We moved up to Skullyville County my second trip to the Cherokee Nation, and it was on our third trip to the Cherokee Nation that Emily Weaver came with us." I was married in the fall and about the first of the next February following we started on our third trip to the Cherokee Nation. We had two teams stolen after we left Skullyville for the Cherokee Nation and "had to lay over down here just the other side of Fort

Smith. We stayed there about a week. Then we got across the river to Lees Creek and were water bound there a week or two". I don't know how long we were on the road this trip, but think it was in March when we arrived at our destination "for we sowed a few oats and put out a corn crop" upon our arrival.

In connection with the foregoing, attention is called to this witness's testimony given before the Commission on September 21, 1900, at Vinita, and on October 20, 1902, at Muskogee, Indian Territory, in his own behalf, Cherokee case No. 3167. Also to a letter written by said witness to Emily Weaver, under date of July 2, 1905, a copy of which is attached to the record herein.

ANTHONY (RANT) CRITTENDEN, in behalf of applicants, same date and place, testified as follows: I am about 55 or 56 years old and live in Canadian District. I am acquainted with Emily Weaver, she is my mother. I lived in Polk County, Arkansas, when the war closed, and left there and went to the Choctaw Nation in 1866. We left the Choctaw nation in 1866, I don't remember what time in the year, and had traveled about one day when we lost our horses. We had not crossed the Arkansas river at the time our horses were lost. It was either in the fall or winter that we made this trip "and it was in 1867 that we got to where we were going." I think it was along in the spring that we arrived at our destination. We might have been a month and a half making this trip. We were detained several days at Lees Creek, Cherokee Nation, by high water. The party making this trip was composed of my mother, Emily Weaver, Thomas Kelly, Aunt Lydia Quinton, old man Kelly, and myself. I don't remember of having lived in the Cherokee Nation before the rebellion.

JOHN W. ALBERTY, in behalf of the Cherokee Nation, appeared before the Commission on July 27, 1905, at Muskogee, Indian Territory, and testified as follows: I am 71 years old, am a Cherokee by blood, and my postoffice is Westville. I have lived in and around the vicinity of Westville for seventy-one years. I knew Elijah Phillips. "He left (the Cherokee Nation) for Polk County, Arkansas, immediately after the Emigrant Payment, it was in, I reckon, about 1852". He moved to Arkansas with his effects and was living there when the war came up. I know a slave named Nellie who belonged to this Phillips family, who was the mother of Emily Weaver, and who died prior to the commencement of the rebellion. Emily belonged to the Phillips family, was taken to Arkansas with them and was living there when the war came up. After the close of the rebellion I was living on the same place

that I am occupying now, which is about two and a half miles south of Westville. I knew Lydia Quinton, knew her before the war. She was a Cherokee by blood and was a cousin of mine. She returned to the Cherokee Nation after the rebellion in February, 1868. I remember this by reason of the fact that "I loaned her a wagon and team to move up there". I know that she brought Emily Weaver to the Cherokee Nation with her on the trip made in February, 1868. After the rebellion I left Texas on the first day of September, 1866, and landed in the Cherokee Nation the first week in October of the same year, and have since continually lived in the vicinity of Westville. I made a crop near Westville the next year after my arrival, and the following fall Lige Phillips and Mrs. Quinton came to the Cherokee Nation to select a location. I loaned Mrs. Quinton a wagon to move with and the next February she returned, bringing with her some slaves, among others, Emily Weaver. Joe Weaver and old Levi Robbins also came with her on this trip. I know Tom Kelly, a Cherokee, but don't believe he came to the Cherokee Nation after the rebellion with Lydia Quinton. It seems to me he came in the fall of '68. Lige Phillips, Lydia Quinton and Emily Weaver were living on Red River, Choctaw Nation, when the war closed, and Lige Phillips, taking with him Emily Weaver, moved from there back to Polk County, Arkansas, in February, 1866, and made a crop there that year.

GEORGE CRITTENDEN, in behalf of Cherokee Nation, same date and place, testified as follows: I am 60 years old, and, with the exception of four years during the war, have lived in the vicinity of where Westville now is, all my life. I returned to the Cherokee Nation after the rebellion in the fall of 1867. I know Emily Weaver and Joe Weaver, also knew Lydia Quinton, but don't know when Emily Weaver and Lydia Quinton returned to the Cherokee Nation. I know when Joe Weaver returned, it was in the spring of 1868, and we made a crop together that year. Joe Weaver was the father of one of Emily Weaver's children. I saw Joe and Emily Weaver during the war. They were then at Lige Phillips' place in Polk County, Arkansas. Aunt Lydia Quinton was not living near Westville when I returned to the Cherokee Nation in 1867, and the first time I saw her was sometime in 1868.

WAT WHITMIRE, in behalf of Cherokee Nation, same date and place, testified as follows: I am 53 years old, am a Cherokee by blood, and my postoffice is Westville. I lived in the vicinity of Westville before the war, and after the rebellion returned there in the fall of 1866, where I have since continually lived. I know Emily Weaver, the applicant. The first time I remember seeing her was in January or February, 1868. She had just come in from Polk County, Arkansas, and was with a company composed of the Phillips family, the Kelly family, the Quinton family, and my uncle, Wese Crittenden. I remember this because my father said

"Your old uncle Mose Crittenden has been gone from this country a good while and just got back". During the war we moved first to Cane Hill, Arkansas, then to the Choctaw Nation, on Red River, and were living there when the war closed. There were a good many Alberty's living in our neighborhood on Red River, but I never knew of Lige Phillips or Emily Weaver living down there. I saw Uncle Jack Alberty on Red River during the rebellion but don't know where he lived at that time. The first time I ever saw Lige Phillips or Emily Weaver was in the year 1868, when Lige Phillips bought a farm near Westville. Emily at that time was at his house.

JOHN W. ALBERTY (Uncle Jack), recalled, testified as follows: I knew Watt Whitmire during the rebellion. I lived about thirty-five miles from him, in the Choctaw Nation, on Red River, I lived at the mouth of the Kiamichi river, and he lived up at the mouth of Island Bayou.

C A S E C L O S E D.

FINDINGS OF FACT AND CONCLUSION: It is considered that, following the ruling of the Department in the case of Benjamin Crittenden, et al., (I.T.D. 3484-02) supra., the applicants, Emily Weaver, Thomas Kirk, Charlotte Newton and Lottie Robbins, possess no rights to Cherokee citizenship as Cherokees by blood.

IT IS FURTHER CONSIDERED: That the evidence in this case shows that the applicants, Emily Weaver and Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the rebellion; that prior thereto and during said rebellion, they lived outside of the limits of the Cherokee Nation, and did not thereafter, remove to and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation; and that all the other applicants herein were born since the close of the rebellion and possess no rights to enrollment as Cherokee freedmen other than as descendants of the said Emily Weaver.

IT IS FURTHER CONSIDERED: That after ample opportunity having been afforded, the evidence in this case fails to show that the applicants, Peggie Whitmire and Henry Bushyhead are the children of the said Ellis Whitmire, deceased, who, it is alleged, was

a Cherokee by blood, and the said Bob Bushyhead, who it is alleged, is a citizen by blood of the Cherokee Nation, consequently, the application for their enrollment comes within the ruling of the Department in the cases of Elisa Bryant, et al. (I.T.D. 544-04) William Rector (I.T.D. 1468-04) Minnie Duncan et al., (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), and Moses Ross (I.T.D. 6056-04). In connection with this last finding, attention is called to the case of Ballie Brooks, et al., Cherokee Freedman Rejected case No. 54, where, under a somewhat similar, but stronger, record relative to illegitimate descendants of recognized Cherokee citizens, it was held by the Commission that "Aside from the fact that the gross immorality the mother and alleged fathers of said minor applicants acknowledge themselves guilty of, is, in itself, sufficient to discredit their testimony, and render it of little value, it is considered by the Commission that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent--one which could not be safely followed".

IT IS, THEREFORE, ORDERED AND ADJUDGED, that, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Peggie Whitmire and Henry Bushyhead, are not entitled to enrollment as Cherokee Freedmen, nor as Cherokees by blood, and their applications for enrollment as such are accordingly denied.

Tams Bixby.

COMMISSIONER

Dated at Muskogee, Indian Territory,

this SEP 29 1905

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

1173

CHIEF CLERK,

CHEROKEE LAND OFFICE.

DEAR SIR:

The records of this office show

listed on Cherokee card No. 1173

to be prima facie entitled to enrollment as 1173 of the Cherokee Nation for the following reason,

viz: 1173

Respectfully,

Commissioner.

Dated 11/12/11

D

D91-3

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
FEB 12 1902

[Handwritten signature]

COMMISSIONERS:
HENRY L. DAWES.
TAMM BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH.
SECRETARY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, **February 25,** 1902.

Mrs. Susanna Kirk,

Tahlequah, Indian Territory,

Madam:-

You are hereby notified that the application of **Thomas Kirk**

for enrollment as citizen of the Cherokee Nation will be taken up for final consideration by the Commission to the Five Civilized Tribes, at its office in Muskogee, Indian Territory, on **the 13 day of March, 1902.**

On said date, you may, if you desire, appear before the Commission, in person or by attorney, when an opportunity will be given you to introduce any additional testimony affecting your application.

You are further notified that the Representatives of the Cherokee Nation will also, at the same time, be afforded an opportunity to introduce testimony tending to disprove your right to enrollment, but said Representatives will be required to notify you of their intention to introduce such testimony before they will be permitted to do so.

**Cherokee D-963
Register.**

Yours truly,

~~XXXXXXXXXXXX~~

Commissioner in Charge.

Muskogee, Indian Territory, March 13, 1902

Col. R. B. Ross,

Tahlequah, Indian Territory.

Dear Sir:-

Relative to your request to have the final hearing of the application for the enrollment as a Cherokee citizen of Thomas Kirk continued to some date in April, you are advised that it is impossible to do this, as to set the case for any time in April would conflict with dates reserved for the hearing of doubtful Cherokee Freedmen applications.

The application of Thomas Kirk has, however, been continued from March 13, 1902, to March 24, 1902, which is the latest possible date on which it can be set.

Yours truly,

Commissioner in Charge.

Cherokee D-963

Cherokee D 923

Muskogee, Ind. Ter., July 7, 1902.

Thomas Kirk,

Tahlequah, Ind. Ter.

Sir:

In the matter of your application for enrollment as a citizen by intermarriage of the Cherokee Nation, you are advised that you will be given until August 12, 1902, to submit testimony to this Commission tending to show your right of enrollment as a Cherokee freedman.

You may submit this testimony to the Commission at its office in Muskogee, Indian Territory, on any day before the above date.

Yours truly,

Commissioner in Charge.

Register.

Cherokee B 963.

Muskogee, Indian Territory, July 8, 1902.

Thomas Kirk,

Tablequah, Indian Territory.

Sir:

Referring to the application for your enrollment as an intermarried citizen of the Cherokee Nation, you are hereby notified that you will be allowed until August 18, 1902, to submit to this Commission at its office in Muskogee, Indian Territory, such testimony as you may desire to offer tending to show what right, if any, you have to enrollment as a Cherokee Freedman.

Very respectfully,

Acting Chairman.

6659

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FIVE THIRDS		JUL 26 1902	
No.	Received	ANSWERED	
11988	JUL 26 1902	Book	Page
1902			

Kirk Tom.
 Talequah T.T.
 July 23, 1902

CHEROKEE.

Rel. to enrollment
 of himself and
 family.

72-0

204

File with 12963

Thomas Pitt, Tabernash.

in Mexico. July 23 1902

Dear Sir,

I am
and

Cherokee D-963

Muskogee, Indian Territory, July 30, 1902.

Tom Kirk,

Tahlequah, Indian Territory,

Dear Sir:

The Commission is in receipt of your letter of July 23, stating that you are unable to appear before the Commission and give testimony in the matter of your application for enrollment as a citizen of the Cherokee Nation as required by the Commission's recent notice to you.

Your letter has been duly noted and filed.

Yours truly,

Acting Chairman.

Cherokee D 963.

Muskogee, Indian Territory, September 11, 1902.

Col. R. B. Ross,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that Thomas Kirk, of Tahlequah, Indian Territory, has this day been directed to appear before the Commission at Tahlequah, Indian Territory, within fifteen days from date hereof, and submit such testimony as he may desire to offer tending to show what right, if any, he has to enrollment as a Cherokee Freedman.

The Commission has been unofficially advised that you are well acquainted with the said Thomas Kirk, and respectfully requests that you have him appear before the Commission within the time allotted.

Yours truly,

Acting Chairman.

Cherokee D 963.

Muskogee, Indian Territory, September 11, 1902.

John O. Rosson,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that Thomas Kirk, of Tahlequah, Indian Territory, who has been listed for enrollment as a citizen by intermarriage of the Cherokee Nation on Cherokee roll card, field No. D 963, has this day been notified to appear before you within fifteen days from date hereof, and submit such testimony as he might desire to offer tending to show what right, if any he has to enrollment as a Cherokee Freedman.

Should the said Thomas Kirk appear before you, it is suggested that before you proceed to examine him, relative to his right to enrollment as a Freedman, that you request Mr. Hastings to be present at the said examination.

Yours truly,

Acting Chairman.

Cherokee D 963.

Muskogee, Indian Territory, September 11, 1902.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

Under date of July 8, 1902, you were directed to appear before the Commission to the Five Civilized Tribes, on or before August 12, 1902, to submit such testimony as you might desire to offer tending to show what right, if any, you have to enrollment as a Cherokee Freedman.

It appears that to this request of the Commission you have remained silent. You are now directed to appear before the Commission at Tahlequah, Indian Territory, within fifteen days from date hereof for the purpose above indicated.

Yours truly,

Acting Chairman.

Cherokee D-963

Cherokee D-2443.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of the applications for the enrollment of Thomas Kirk and Rachel Woodall as citizens of the Cherokee Nation, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced as to their identification on the Cherokee tribal rolls, and as to their residence since birth.

You are advised that the applicant, Thomas Kirk, has this day been directed to appear before the Commission at its offices in Muskogee, at nine o'clock A. M. on Saturday, July 16, 1904, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire, in rebuttal of that offered by the applicant.

Respectfully,

Commissioner in Charge.

Ches D963

Muskogee, Indian Territory, June 30, 1904.

Emily Weaver,

Westville, Indian Territory.

Dear Madam:

In the matter of the enrollment of your children, Charlotte Downing, Rachel Woodall and Thomas Kirk, and your grandchildren, Peggie Whitacre and Henry Bushyhead, as citizens of the Cherokee Nation you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced as to the identification on the Cherokee tribal rolls and the residence of the said Rachel Woodall and Thomas Kirk; also further testimony as to the identity on the tribal rolls and the citizenship of Josh Robbins, father of your child Charlotte Downing; also further testimony as to the identity and citizenship of the fathers of your two minor grandchildren above mentioned.

You are therefore hereby directed to appear before the Commission at its offices in Muskogee, at nine o'clock A. M. on Saturday, July 16, 1904, and introduce testimony as above indicated.

Please give this matter your immediate attention.

Respectfully,

Commissioner in Charge.

Cherokee D-963

Cherokee D-2443.

Muskogee, Indian Territory, June 30, 1904.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a citizen of the Cherokee Nation, and in the matter of the application for the enrollment of your sister, Rachel Woodall, as a citizen of the Cherokee Nation, you are advised that before the Commission can render a final decision in this case it will be necessary that further testimony be introduced. It is specially desired that testimony be offered as to the identification of yourself and sister on the Cherokee tribal rolls, and as to yours and her residence since birth.

You are therefore hereby directed to appear before the Commission at its offices in Muskogee, at nine o'clock A. M. on Saturday, July 16, 1904, and introduce testimony as above indicated.

Respectfully,

Commissioner in Charge.

COMMISSIONERS:
TAMM BIXBY,
THOMAS B. NEEDLES,
C. E. BRACKENRIDGE,

WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee
REFER IN REPLY TO THE FOLLOWING:

**Cherokee-2-2443-
963.**

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES. Muskogee, Indian Territory. January 19, 1905.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a citizen of the Cherokee Nation, and in the matter of the application for the enrollment, as a citizen of the Cherokee Nation, of your sister, Rachel Woodall, you are advised that, before the Commission can render a final decision in these cases, it will be necessary that further testimony be introduced.

It is specifically desired that testimony be offered as to the identification of yourself and sister upon the Cherokee tribal roll, and as to your and her residence since birth.

For this purpose you should appear before the Commission, at its offices in Muskogee, Indian Territory, as early as possible, and introduce testimony as above indicated.

Respectfully,

[Signature]
Chairman.

COPY.

Cherokee D-963.

Muskogee, Indian Territory, May 22, 1905.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application for your enrollment as a citizen of the Cherokee Nation, you are advised that before the Commission can render a final decision in this case it is necessary that further testimony be introduced tending to show whether or not you were either a slave of a Cherokee citizen or a free colored person residing in the Cherokee country at the commencement of the war of the rebellion, and whether or not you established your residence in the Cherokee Nation in compliance with article nine of the treaty of 1866.

You are, therefore, hereby directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 1, 1905, and introduce testimony as above indicated. The Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

Register.

(SIGNED) *Tams Dixby.*
Chairman.

Centralia P.T. Aug 21/1900.

2

[illegible]

The morning

COPY.

Muskogee, Indian Territory, September 29, 1905

The Honorable,

The Secretary of the Interior:

Sir:

There is herewith transmitted the record of proceedings had in the matter of the consolidated applications for enrollment, of Emily Weaver, et al., including the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, classifying Emily Weaver, Lottie Robbins, Thomas Cook, Charlotte Newton, Peggie Whitmire and Henry Bushyhead, as Cherokee Freedmen, and rejecting their applications for enrollment as such.

In connection with said consolidated case of Emily Weaver, et al., transmitted herewith, the Department's attention is invited to the case of Mary Crittenden, Cherokee Freedman No. 1259, formerly Cherokee D 51, wherein it was held by the Commission to the Five Civilized Tribes, in its decision rendered on June 9, 1902, that the said Mary Crittenden, the evidence in said case showing that she was married to a citizen by blood of the Cherokee Nation, was entitled to enrollment as a citizen by intermarriage of said

Secretary--2

Nation, the record in said case being duly forwarded to the Department. On November 20, 1903 (Departmental letter I. T.D. 3484-02), without passing upon the question of the legality of a marriage between an Indian and a person of African descent, the Commission was ordered by the Department to enroll the said Mary Crittenden upon the Freedman roll, and in pursuance of said order, her name was placed upon the Cherokee Freedmen schedule forwarded to the Department on November 2, 1904, and she is now included in a partial roll of Cherokee Freedmen approved by the secretary of the Interior on November 16, 1904, opposite No. 3495.

The evidence in the said case of Mary Crittenden, Cherokee Freedman 1259, supra., shows the facts therein to be as follows:

That the said Mary Crittenden is identified on the Cherokee Census roll of 1896 as a native Cherokee, was born since the commencement of the rebellion, (It is respectfully submitted, however, that the evidence in the consolidated case herewith transmitted, shows that she was born prior to 1861), and is an illegitimate daughter of the said Emily Weaver, who was the slave of a Cherokee citizen at the commencement of the rebellion, and one Joe Weaver, a citizen by

Secretary--3.

blood of the Cherokee Nation, and who is duly identified on the Cherokee authenticated tribal roll of 1880, and is included in a partial roll of Cherokees by blood approved by the Secretary of the Interior on January 16, 1903, opposite No. 1102.

In said Departmental letter of November 20, 1903, supra., it was held by the Department that the said Emily Weaver "though half Cherokee blood, was not a Cherokee citizen until the amendment of Section 5, of Article III, of the Cherokee Constitution", said amendment including as Cherokee citizens, among others, those who complied with the provisions of Article IX of the Treaty of 1866 (Cherokee Freedmen); that Emily Weaver "having never married Joe Weaver, the child (Mary Crittenden) took the status of her mother", and that "Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent".

The evidence in this case, C.F. 1259, however, fails to show that the said Emily Weaver had established a residence in the Cherokee Nation, after the rebellion, within the time specified in the Wilshire decree, which, under the theory that Mary Crittenden was born subsequent to the commence-

Secretary-4

ment of the rebellion, was a material fact, and necessary to be shown in order to entitle Mary Crittenden to enrollment as a Cherokee Freedman.

It is respectfully contended by this office that the evidence taken in the consolidated case of Emily Weaver, Memo 348, et al., herewith transmitted, shows that the said Mary Crittenden was born prior to, and was the slave of a Cherokee citizen at the commencement of, the rebellion; and that she resided outside the limits of the Cherokee nation during said rebellion, and did not return to and establish her residence therein, within the time specified in the said Whitacre decree.

It is therefore, respectfully recommended that if the Department affirms the decision of this office in the consolidated case of Emily Weaver, et al., herewith transmitted, that the case of Mary Crittenden, Cherokee Freedmen 1259, be reopened and reviewed.

Respectfully ,

W. H. H. H.

Tams E. H. H.
Commissioner

Through the

Commissioner of Indian Affairs.

Incl. B 100
LMB

Cherokee Memo.

348, et al.

COPY.

Muskogee, Indian Territory, September 30, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applications for the enrollment of Emily Weaver, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. S-129

2005
2005
Commissioner.

Cherokee D-963.

Muskogee, Indian Territory, September 30, 1905.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting, among others, your application for enrollment as a Cherokee (freedman) citizen. There has heretofore been furnished your attorney, R. H. Couch, Westville, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

~~SENTER~~
James Birney
Commissioner.

Incl. S-125
Register

Cherokee Memo.

COPY.

348, et al.

Muskogee, Indian Territory, September 30, 1905.

R. H. Couch,

Attorney for Emily Weaver, et al.,

Westville, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 29, 1905, rejecting the applications for the enrollment of Emily Weaver, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

SIGNED

Incl. S-128
Register

Commissioner.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
87305-1905.

November 7, 1905.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of October 30, 1905, (I.T.D.14006), I have the honor to return the record in the matter of the application of Emily Weaver, et al., for enrollment as citizens of the Cherokee Nation, which was transmitted with Office report of October 23, 1905, and returned for further consideration, as requested in Office letter of October 25. The Commissioner to the Five Civilized Tribes, under date of September 29, 1905, classified Emily Weaver, Lottie Robbins, Thomas Kirk, Charlotte Newton, Peggie Whitmire, and Henry Bushyhead, the applicants, as Cherokee freedmen, and rejected their applications for enrollment.

Emily Weaver's mother, Nellie Cole, was of African descent and had no Cherokee blood. Emily Weaver is the daughter

of the said Nellie Cole and Lewis Crittenden, a Cherokee citizen. Lottie Robbins, Thomas Kirk, and Charlotte Newton, are children of Emily Weaver. Charlotte Newton and Lottie Robbins are her illegitimate children by Josh Robbins, deceased, a citizen by blood of the Cherokee Nation. Susanna Kirk is the wife of Thomas Kirk. Peggie Whitmire and Henry Bushyhead are the illegitimate children of Charlotte Newton. It is claimed by Charlotte Newton that Ellis Whitmire, deceased, was the father of Peggie Whitmire, and that Bob Bushyhead is the father of Henry Bushyhead, and that Ellis Whitmire and Bob Bushyhead were Cherokees by blood.

The Commissioner to the Five Civilized Tribes found that Emily Weaver and her son, Thomas Kirk, were the slaves of a Cherokee citizen at the commencement of the war; that during the war they were living outside the limits of the Cherokee Nation, but returned thereto and established a residence therein, and have since continuously resided in the Cherokee Nation. He, however, rejected all of the applicants, and takes the position that they are not entitled to enrollment as Cherokees by blood or as Cherokee freedmen under the provisions of the Act of June 28, 1898, (30 Stats. 495).

Susanna Kirk, wife of Thomas Kirk, is not a party to the case, and Mr. Bixby did not consider or adjudicate any rights to Cherokee citizenship Thomas Kirk and Charlotte

Newton, formerly Downing, may have acquired by virtue of their respective marriages to duly recognized citizens by blood of the Cherokee Nation, but confined his whole consideration of the case to such rights to enrollment as the applicants possessed as Cherokee freedmen or Cherokees by blood.

It appears to this Office that the first question to determine in this case is whether or not Emily Weaver and Thomas Kirk returned to and established a residence in the Cherokee Nation on or before February 11, 1867, in accordance with the provisions of the treaty of 1866, and second, whether applicants Pergie Whitmire and Henry Pushyhead, the illegitimate children of fathers who were recognized as citizens of the Cherokee Nation, should be enrolled if it is found that Emily Weaver did return to the Nation in accordance with the provisions of the treaty mentioned.

Emily Weaver is enrolled on the Cherokee census roll of 1896 at No. 489, Thomas Kirk at No. 1956, Lottie Robbins at No. 1764, and Charlotte Kirk, now Newton, at No. 1872.

The testimony in the case as to the return of Emily Weaver and Thomas Kirk is very conflicting, and the Commissioner to the Five Civilized Tribes found that they did not remove to and establish a residence in the Cherokee Nation on or before February 11, 1867. Emily Weaver testified that she

was born and raised in the Cherokee Nation; that it has always been her home; and that she has never lived at any other place. She subsequently testified, however, that she returned to the Cherokee nation, the year after peace was declared, with Will and Lydia Quinton, Mrs. Fulton, Thomas Kelly, Vyley Kelly, and Rosanna and Nancy Johnson. Charlotte Newton was born after her mother's return to the Indian Territory, and she testified that Ellis Whitmire and Bob Bushyhead were the fathers of her illegitimate children, Peggie Whitmire and Henry Bushyhead; that she never lived with Ellis Whitmire, but did live with Bob Bushyhead two months. She subsequently said she lived with Bob Bushyhead three or four months.

The testimony of Lewis Weaver does not contain any information as to the return of Emily Weaver and Thomas Kirk.

Israel Crittenden testified that he returned to the Cherokee Nation about two years after the war closed, and found Emily Weaver and Josh Robbins living together with his aunt Lydia Quinton.

Anthony (Rant) Crittenden said that his mother, Emily Weaver and Josh Robbins began living together about two years after the war closed, and that Charlotte and Lottie Robbins were born to Emily Weaver during the time she lived with Josh Robbins.

The testimony of Susanna Kirk, with reference to the return of her husband, Thomas Kirk, and his mother, Emily

Weaver, is immaterial, as she knows nothing about their return, being only 35 years of age.

Lewis Weaver testified that after the close of the war, he and his mother returned to the Cherokee Nation with Lydia Quinton, and that they started back the first year after peace was declared.

Thomas Kelly testified that Elijah and Sidney Phillips were the owners of Emily Weaver; that they had been living in Polk County, Arkansas, for several years before the commencement of the Rebellion; that he was married in 1867 or 1868 or 1866; that his marriage occurred during his return to the Cherokee Nation, and that Emily Weaver did not return with him, but that she returned in the Spring of 1867. This witness cannot read or write, and his memory as to his marriage seems to be indefinite. He first said it was in 1867 or 1868, and then that it was in the Fall of 1867, and again in the Fall of 1866. He also testified that Emily Weaver returned with him on his third trip to the Cherokee Nation.

Under date of July 2, 1905, Thomas Kelly addressed a letter to Emily Weaver, as follows:

"You started with us from Polk Co. Ark. for the Cherokee Nation in the fall of 1865, we got as far as Skullyville, Choctaw Nation & we was obliged to stop and make a crop in 1866, some of our horses & owen was stolen you remember, then we went on, & got to Goingsnake District in Mch. of 1867. Yes, we was on our way before Jan. 1, '67, but owing to our stock being stolen it was in Mch. before we got there."

Anthony (Rant) Crittenden subsequently testified that he and his mother, Emily Weaver, and others, left the Choctaw Nation in 1866; that they had travelled one day when they lost their horses "and it was in 1867 that we got to where we were going." He said that they arrived at their destination in Nhe Spring; that they were probably one and one half months making the trip, and that the party making the trip was composed of his mother, Emily Weaver, Thomas Kelly, Lydia Quinton, "old man Kelly," and himself. All of the witnesses above mentioned were summonsed before the Commissioner on behalf of the applicants.

John W. Alberty says that Elijah Phillips was the owner of Nellie Cole, mother of Emily Weaver; that Nellie Cole died prior to the commencement of the Rebellion, and that Elijah Phillips left the Cherokee Nation for Polk Co., Arkansas, immediately after the emigrant payment "about 1852." He also said that Lydia Quinton was his cousin; that she returned to the Cherokee Nation in 1868; that he loaned her a wagon and team with which to remove, and to the best of his knowledge in the Fall of 1866 Lydia Quinton and Emily Weaver were living on the Red River, in the Choctaw Nation.

George Crittenden says that he returned to the Cherokee Nation in 1867, but that he did not see Emily Weaver until sometime during the year 1868.

Wat Whitmire testified that the first time he remembers seeing Emily Weaver in the Cherokee Nation was in January

or February 1868. He further testified that during the war he removed to Cane Hill, Arkansas, then to the Red River in the Choctaw Nation, where he was living at the close of the war, but that he never knew of Emily Weaver living in that vicinity.

Mary Crittenden is a daughter of Emily Weaver, and the Department on November 20, 1903, (I.T.D. 3454-1902), in determining the Mary Crittenden case, said, in opening of the agreement to Section 5 of Article 3 of the Cherokee Constitution, ---

"By this act of enfranchisement Emily Weaver and her daughter, Mary Crittenden became citizens of the Nation. Mary was therefore not entitled to enrollment as a Cherokee by blood though shown to be of three-fourths Cherokee descent. She was, however, and is shown to be entitled to enrollment as a Cherokee citizen upon the freedmen's roll. She was placed upon the 1896 census roll compiled by the Cherokee authorities. Being of three-fourths Cherokee descent, born, and always resident in the Cherokee country, of a mother entitled to be enrolled as a citizen under the provisions of Article 9 of the Treaty of July 19, 1866 (14 Stat., 799,801), and actually enrolled by the Cherokee authorities, it cannot be said that her recognition and enrollment was either "by fraud or without authority of law." The roll of 1896 is evidence of her right, and the facts fail to negative the prima facie case thereby made for her by her enrollment and recognition by the Cherokee authorities as a citizen."

From the testimony of Thomas Kelly, Anthony (Rant) Crittenden and Lewis Weaver, it would seem that Emily Weaver and Thomas Kirk did not return to the Cherokee Nation on or before February 11, 1867.

The testimony of the other witnesses, both for and

against Emily Weaver and Thomas Kirk is to the effect that they did return before February 11, 1867, or that such witnesses did not see them in the Cherokee Nation until during the year 1868. Emily Weaver and Thomas Kirk might easily have been in the Cherokee Nation and in the Going Snake District without the witnesses having had knowledge of such fact.

This Office is of the opinion that the preponderance of the testimony shows that Emily Weaver and Thomas Kirk returned to the Cherokee Nation within the time limit fixed by the Treaty of 1866. Furthermore, in the Mary Crittenden case the Department has practically settled the status of Emily Weaver.

Under the position taken by the Department in the Mary Crittenden case, it appears to this Office that Emily Weaver, Thomas Kirk, Lottie Robbins, and Charlotte Newton, are entitled to enrollment as Cherokee freedmen, but not as Cherokees by blood, and it is recommended that the decision of the Commissioner to the Five Civilized Tribes, so far as these applicants are concerned, be reversed, and that he be directed to enroll them as stated.

The Office also considers that it is clearly shown that Ellis Whitmire, deceased, a Cherokee citizen, was the father of Pessie Whitmire, the illegitimate child of Charlotte Newton, and that Bob Bushyhead, a Cherokee citizen, is the father of Henry Bushyhead, also an illegitimate child

of Charlotte Newton. The Commissioner to the Five Civilized Tribes invited attention to the Commission's holding in several cases, and especially in the case of Mary Counsel, et al., wherein the Commission said:

"Aside from the fact that the gross immorality of the mother and alleged fathers of said minor applicants acknowledge themselves to be guilty of, is, in itself, sufficient to discredit their testimony and render it of little value, and it is considered by the Commissioner that to grant the application for the enrollment of illegitimate minor applicants on the testimony of the mother and putative fathers alone, would be to establish a dangerous precedent--one which could not be safely followed."

It appears to the Office that the position of the Department in the Nancy Ray case, November 22, 1902, (I.T.B. 5045-1902) is applicable to this case, and should be followed. Because of the immorality of the parents of these children, they should not be deprived of their citizenship in the Cherokee Nation, if entitled to such rights. In the Nancy Ray case the Department said:

"Had Congress intended to limit the right to those of legitimate descent, or descendants born in lawful wedlock, presumably it would have so provided. No reason can be assigned to exclude illegitimate descendants of male citizens and to admit such descendants of female citizens, except tribal law or usage. But tribal law or usage is not recognized by the act as authority for action of your Commission in respect to persons descended from persons born on the roll of 1880. In providing without limitation or reserve that descendants of such persons shall be enrolled, illegitimates, on either side, cannot be excluded without importing into the act words of limitation not enacted by Congress and in face of the facts that such words in a former act were ex industria excluded in framing the act in question."

It is believed by the Office that under the Department's holding in the Nancy Ray case, Peggie Whitmire and Henry Bushyhead are entitled to enrollment as citizens of the Cherokee Nation, but that under the position taken by the Department in the Mary Crittenden case, they should be enrolled as Cherokee freedmen, instead of as Cherokees by blood, and the Office recommends accordingly.

In order that the Department may have the entire record relating to the return of Emily Weaver before it, the record in the Mary Crittenden case is enclosed.

Attention is invited to the statements in the Commissioner's report recommending the rejection of the applicants in the Emily Weaver case, and that if such action be taken, the Mary Crittenden case be re-opened and reviewed.

It is requested that this report be substituted for Office report of October 22, 1905, (Land 75812-1903--79387-1905), relating to this same subject.

Very respectfully,

C. F. Larrabee.

Acting Commissioner.

G.A.W.
LC..

D. C. 51590-1905.
I.T.D. 14654-1905.
LRS

Y.P.
FHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

November 10, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is inclosed herewith a copy of Indian Office letter of November 7, 1905 (Land 87305), in which it is recommended that your decision in the Cherokee freedman case of Emily Weaver, et al., be not concurred in. The case was submitted with your letter of September 29, 1905.

It is requested that you furnish the attorneys for the Cherokee nation with a copy of the Indian Office letter, and advise them that twenty days will be allowed them within which to file any argument they may desire, evidence of service of a copy thereof upon the principal applicants to be furnished; also advise the principal applicants that they will be allowed ten days within which to reply to any argument made by said attorneys.

Respectfully,

(Signed) Thos Ryan
First Assistant Secretary.

Through the
Commissioner of Indian Affairs.

Muskogee, Indian Territory, December 23, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of November 10 (I.T.D. 14654-1905), there is transmitted herewith brief and argument on behalf of the Cherokee Nation in the Cherokee freedmen enrollment case of Emily Weaver, et al., (Memo 348), evidence of service of a copy thereof on R. H. Couch, attorney for applicants, being furnished. There is also transmitted herewith reply brief of said R. H. Couch. There is nothing to show that copy of this reply brief has been served on the attorneys for the Cherokee Nation.

You are advised that subsequent to the time the principal applicants in this case and their attorney were notified of Department's letter of November 10, in which the Nation was allowed twenty days to file any argument it desired, and the applicants ten days additional within which to reply to any argument made by the attorneys for the Cherokee Nation, Mr. Couch informally advised this office that he was a notary public, and

he was informed of the rules of the Department with reference to notaries public being permitted to practice before it. This office has not been advised as to whether or not Mr. Couch has surrendered his commission as a notary public for the Northern district of Indian Territory.

Respectfully,

Incl. 8-106

Commissioner.

Through the
Commissioner of Indian Affairs.

Chas 963

D. C. 2096-1906.
I.T.D. 132-1906.
LRS

Y.P.
FHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

January 10, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The argument in the Cherokee freedman case of Emily Weaver, et al., by R. H. Couch for applicants, received with your letter of December 23, 1905, is inclosed to be returned to Couch.

It appears that he has not been admitted to practice before the Department, and the argument bears no evidence of service upon the attorneys for the Cherokee Nation.

You will advise the principal applicants of this action.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos. Ryan,
First Assistant Secretary.

1 inclosure.

COPY

Cherokee-D-2443-963

Muskogee, Indian Territory. January 19, 1905.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a citizen of the Cherokee Nation, and in the matter of the application for the enrollment of your sister, Rachel Woodell, as a citizen of the Cherokee Nation, you are advised that, before the Commission can determine your rights as such citizens, it will be necessary that further testimony be introduced. It is specifically desired that testimony be offered as to the identification of yourself and sister upon the Cherokee Tribal roll, and as to yours and her residence since birth.

For this purpose you should appear before the Commission, at its offices in Muskogee, Indian Territory, as early as possible, and introduce testimony as above indicated.

Respectfully,

SIGNED: *Tame Bixby*
Chairman.

Cherokee 5963
~~Wane-Sis et al.~~

Muskogee, Indian Territory, January 20, 1906.

R. H. Couch,

Westville, Indian Territory.

Dear Sir:

There is inclosed herewith argument filed by you in behalf of applicants in the Cherokee freedman enrollment case of Billy Weaver, et al. The argument was returned to this office with Departmental letter of January 10, 1906, to be returned to you with the advice that you have not been admitted to practice before the Department, and that the argument bears no evidence of service upon the Attorneys for the Cherokee Nation.

Respectfully,

Incl. 61-60.
GHL

Commissioner.

Cherokee
D 963

Muskogee, Indian Territory, January 20, 1906.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of Departmental letter of January 10, 1906, returning the argument of R. H. Couch in behalf of applicants in the Cherokee freedman enrollment case of Emily Weaver, et al., for the reason that he had not been admitted to practice before the Department, and for the further reason that the argument bears no evidence of service upon the Attorneys for the Cherokee Nation.

Respectfully,

GHL

Commissioner.

Muskogee, Indian Territory, May 29, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is inclosed herewith petition made by I. P. Wledsoe, Choteau, Indian Territory, that the Cherokee enrollment case of Emily Weaver, et al. (Memorandum 348 et al.), be remanded to this office "for review and the introduction of new and material evidence recently discovered." There is also enclosed reply to said petition made by the attorneys for the Cherokee Nation.

On January 3, 1902 (I.T.D. 5698-1901), the Department affirmed the decision of the Commission to the Five Civilized Tribes dated October 3, 1901, refusing, under the Act of Congress of May 31, 1900 (31 Stat., 221), to assume jurisdiction of the application for the enrollment of Emily Weaver and her minor child, Lottie Robbins, as citizens by blood of the Cherokee Nation; that subsequent thereto said applicants were identified on the 1896 Cherokee Census Roll, and upon request of the Commission their case was, on August 2, 1902 (I.T.D. 4641-1902), remanded to be readjudicated in the light of that evidence and for the purpose of taking additional testimony, if necessary.

In Departmental letter of November 20, 1903 (I.T.D. 3434-1902), it was held that Emily Weaver, though of one-half

Secretary--2.

Cherokee blood, could not be classified as a Cherokee by blood but must be classified as a Cherokee freedman. On September 29, 1906, the Commissioner, consolidating the application of Emily Weaver with those of her children and grandchildren, held that the applicants were not entitled to enrollment as Cherokee freedmen and their applications for enrollment as such were denied.

An examination of the petition shows that the "new and material evidence recently discovered" is an

"Act of the National Council of the Cherokee Nation, I. T. admitting all of us to citizenship on December 15, 1869, an authenticated copy of which is hereby submitted also the statements of two old reliable Cherokees citizens by blood, showing our residence, standing and our return to the Cherokee Nation and our blood, family relations and our continuous residence therein since that time, (spring of 1868). Your petitioner would state that she is entitled to enrollment as a Cherokee by blood as her father Lewis Crittenden is an Indian (1/4 Cherokee) by blood and on the authenticated rolls of said Nation, and that she is also entitled to enrollment as a Cherokee freedman under the laws and treaties governing same, having been the slave of Sidney Phillips, a Cherokee Indian, and the wife of Josh Robins, a Cherokee Indian, by whom she had two children, (Charlotte & Lottie) whose father was Levi Robins."

The copy of the Act of the Cherokee National Council approved December 15, 1869, which is certified to by C. J. Harris, Assistant Executive Secretary of the Cherokee Nation, under the Nation's seal, shows that on that date, among others, Levi Robbins and family were readmitted to citizenship in the Cherokee Nation as Cherokee by blood. The

Secretary--3.

paper attached to the petition purports to be an affidavit signed by Cale Wright and Charles Whitmire, but is not sworn to. It is stated in this document that Cale Wright and Charles Whitmire have known the applicant Emily Weaver since the years 1868 and 1870; that she is a daughter of Charles Crittenden, a Cherokee by blood, and the slave of Sidney Phillips, a Cherokee, and that she returned to the Cherokee Nation in the spring of 1868, and that Josh Robbins, a son of Levi Robbins, is the father of Charlotte and Lottie Robbins.

A number of hearings have been had in the consolidated case of Emily Weaver, et al., and the testimony introduced, both for and against the applicants, is very voluminous. The action of the Cherokee National Council of December 15, 1869, readmitting certain persons to citizenship in the Cherokee Nation, when taken in connection with the record of proceedings had in this case, shows that said action could not be construed as admitting or recognizing any of the applicants herein as Cherokee citizens.

There appears to be nothing in the petition or purported affidavit attached which was not considered when a decision was rendered in the case by the Commissioner on September 29, 1905. The Department has held that Emily Weaver could not be classified as a Cherokee by blood, and

Secretary--4.

it is admitted in the affidavit and petition that she did not return to the Cherokee Nation and establish a residence therein within the time limited by the Treaty of 1836.

It is, therefore, respectfully recommended that the petition be denied, and that this office's decision of September 29, 1905, rejecting the applicants be approved.

The Commissioner's decision in this case was forwarded to the Department with letter of September 30, 1905.

Respectfully,

Incl. 91-61.
GHL

Commissioner.

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR,

J. W. H.

I.T.D. Office of the Assistant Attorney-General,
5698-1901.
10996-1906. WASHINGTON.

February 15, 1907.

The secretary of the Interior.

Sir:

By reference of November 17, 1906, I am in receipt of the papers in the Cherokee enrolment cases of Emily weaver et al. and Mary Crittenden et al., with request for my opinion thereon.

The Mary Crittenden case was the subject of departmental decision of November 20, 1903. Therein it was found that Mary Crittenden is the daughter of the said Emily weaver; that the latter is a Cherokee freedmen, and that, accordingly, the former should also be so classified and enrolled.

The Commissioner to the Five Civilized Tribes now decides adversely to the enrolment of Emily weaver and her descendants as Cherokee freedmen. Although the Commissioner finds that Emily weaver and her son Thomas Kirk were the slaves of a Cherokee citizen at the commencement of the war, he concludes that they did not return to and "establish a residence" in the Cherokee Nation by February 11, 1867.

On November 7, 1905, in a communication of some length

and after a detailed analysis of the testimony, the Indian Office recommended that the applicants in the Weaver case be all enrolled as freedmen, expressing at the same time the opinion that applicants Peggy Whitmire and Henry Bushyhead are also entitled to be enrolled as citizens by blood.

The testimony is to the effect that Emily Weaver is at least a half-blood Cherokee, born in the Cherokee Nation about 1841. Her father was a Cherokee; her mother was a slave, having, it is claimed, some Indian blood. Prior to the war she was carried by a Cherokee family, with the consent of the Cherokee family to which she belonged, out of the nation. Before and during the war she was held in servitude, both in Arkansas and the Choctaw Nation, by the family in whose custody she had been placed. Apparently this family carried her from Arkansas into the Choctaw Nation in 1863 and there held her until the close of the war. In the fall of 1866, according to the testimony of the applicants, Emily Weaver and her son started, with others, for the Cherokee country, arriving therein within the time fixed by the treaty of 1866.

In my opinion Emily Weaver, held as she was in restraint and servitude, never established or acquired a domicile beyond the limits of the Cherokee Nation. That has always been her home and her return thereto had no greater significance than the return of

any absentee to his home after a temporary absence. But even if it be true that in such cases the law places the same duty upon the applicants as it imposes in cases where, during the war, they voluntarily adopted other places than the Cherokee Nation as homes, still Emily Weaver and her descendants are entitled to enrolment. The Indian Office finds that the preponderance of evidence is to the effect that they returned to the Cherokee Nation in due time. I concur in this conclusion, which is corroborated by the fact that the national authorities themselves placed the name of Bullette or (Lewis) Weaver, son of Emily, upon the 1880 roll as an "adopted colored." They also enrolled her daughter, Rachel Woodall, on the 1880 roll of citizens by blood. Besides this, the department found in said decision of November 20, 1903, which is evidently correct, that Emily's daughter, Mary Crittenden, was entitled to enrolment. It further appears that the names of all the applicants are borne upon the 1896 census roll of citizens by blood, except Henry Bushyhead, who was born after the making of said roll. While the applicant's showing appears thus, the rebuttal testimony is, in the main, negative in character.

Applicant Tom Kirk was born about 1860, to the said Emily Weaver, then a slave. Born in slavery, he should be enrolled and classified as a freedman. He also claims by intermarriage as husband of Susan Kirk, nee Tadpole, a fullblood Cherokee, enrolled

in 1880, to whom he was married under a Cherokee license in 1882, but no determination as to his right by reason thereof is considered necessary herein.

Applicants Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitmire, and Henry Bushyhead are the children and grandchildren of the said Emily Weaver and are accordingly entitled to enrolment as Cherokee freedmen. They were, however, born in the Cherokee Nation to fathers who were Cherokees by blood, subsequent to the time when Emily Weaver was emancipated. From her alone they are entitled to be classed as Cherokees of the mixed blood. They have always resided in the nation, and, as noted above, all save the younges, who was born in 1898, were enrolled in 1896 as citizens by blood. I see no "lack of right" to such enrolment or evidence that it was made without "authority of law," and, being prima facie correct, it should stand. See departmental decisions in the James Shirley and Mary Crittenden cases, dated, respectively, June 12 and November 20, 1903.

Charlotte Newton also claims enrolment by reason of intermarriage with J. M. Downing, a Cherokee by blood, to whom she was married in 1886, under the Cherokee law, but it is unnecessary to discuss herein what rights, if any, were acquired thereby.

The fact that certain of the applicants are of illegitimate descent does not affect their right to enrollment as citizens

by blood. That illegitimate children are included in the term "descendants," as used in the enrolment acts, is well settled by the decisions of the Department in the Nancy Ray and James Shirley cases and by the opinion of my predecessor in the Corbray cases, dated June 28, 1902.

Accordingly it is my opinion, concurring in the main with the views of the Indian Office, that Emily Weaver and Thomas Kirk should be enrolled as Cherokee freedmen, and that the other applicants should be enrolled as citizens by blood of the Cherokee Nation; also that the decision of the department of November 20, 1903, in the Mary Crittenden case should not be disturbed.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved February 15, 1907.

F. A. Hitchcock,

Secretary.

C.R.W.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

I.T.D.14654-1905.
3574-1907.

February 18, 1907.

L.R.S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with an approved opinion of the Assistant Attorney-General dated February 15, 1907, in the matter of the Cherokee enrollment cases of Emily Weaver et al. and Mary Crittenden et al., you are directed to enroll Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitmire, and Henry Bushyhead as citizens by blood of the Cherokee Nation. A copy of said opinion is inclosed.

A copy of Indian Office letter of November 7, 1905, was sent you November 10, 1905.

The papers in the case and a carbon copy of said opinion, also hereof, have been sent to the Indian Office for its filed.

Respectfully,

Thos Ryan,

1 inc. and 19 to Ind. Of.

First Assistant Secretary.

A. F. Mc.
2,19007.

Washoe, Indian Territory, February 26, 1907

The Honorable,

Secretary of the Interior.

Sir:

February 18, 1907 (I.T.D. 14684-1908, 3674-1907),
the Department directed this office to enroll Emily Weaver
and Thomas Kirk as Cherokee Freedmen, and Charlotte Newton,
Lettie Robbins, Peggy Whitmire and Henry Bushyhead as citi-
zens by blood of the Cherokee Nation.

In accordance with this direction there is en-
closed a Cherokee Freedman schedule containing the names
of Emily Weaver and Thomas Kirk. There is also enclosed
a schedule of Cherokee Indians by blood containing the
names of Charlotte Newton, Lettie Robbins, Peggy Whitmire
and Henry Bushyhead. It will be noted that no roll num-
bers have been given the persons whose names appear upon
the schedules herewith transmitted. This action was taken
in accordance with procedure reported by me to the Department

Secretary-2-

on January 23, 1907, and approved by the Department February 9, 1907. It is recommended that numbers be placed upon these schedules in consecutive order by Mr. McGarr, the employe of my office now in Washington.

You are advised the Attorney for the Cherokee Nation protests against the enrollment of the persons whose names appear upon these schedules, and his protest filed February 21, 1907, is enclosed.

Respectfully,

Commissioner

Through the Commissioner of
Indian Affairs.

Incl. B-40

Cherokee D-1220

D-963 R-618

Muskogee, Indian Territory, March 8, 1907.

I. P. Bledsoe,

Attorney for Emily Weaver, et al.,

Chouteau, Indian Territory.

Dear sir:

You are hereby advised that on February 18, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggie Whitmire and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. M-83

Commissioner.

MH

Cherokee D 1220-
D 963- A-618.

Muskegee, Indian Territory, March 8, 1907.

W. W. Wright,
Attorney for Emily Weaver, et al.,
Washington, D. C.

Dear sir:

You are hereby advised that on February 18, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggie Whitmire and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. X-82

Commissioner.

MM

Cherokee D-1220

D-963 R-616

Muskogee, Indian Territory, March 8, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear sir:

You are hereby advised that on February 18, 1907, the Secretary of the Interior directed the enrollment of Emily Weaver and Thomas Kirk as Cherokee freedmen, and Charlotte Newton, formerly Downing, Lottie Robbins, Peggy Whitwire and Henry Bushyhead as citizens by blood of the Cherokee Nation.

For your information there is enclosed a copy of the Department's decision.

Respectfully,

Enc. N-64

Commissioner.

MH

Cherokee D 968

Muskogee, Indian Territory, March 8, 1907.

Thomas Kirk,

Tahlequah, Indian Territory.

Dear sir:

You are hereby advised that this office is in receipt of Departmental decision of February 18, 1907, granting your application for enrollment as a Cherokee freedman.

Respectfully,

MH

Commissioner.

EDMAN,

120

106

120

Cher Fr 1555

Trans. from Cher Fr D129

Cher Fr 1555



Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 20, 1901.

In the matter of the application of John Markham for the enrollment of himself, his wife and one child as Cherokee Freedmen.

John Markham, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A John Markham.
QQ How old are you? A About 39 years old.
QQ What is your post office? A Wagoner.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Whom do you want to enroll besides yourself? A My wife and one child; I have two children.
Q Do you want to enroll both of them? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All my days.
Q Are you on the rolls of the Cherokee Nation? A I am on the Wallace roll I think.
Q You think that is all? A I may be on the others.
Q Give me the name of your father? A My father's name is Emory Kirk, but I always went by my uncle's name, the man that raised me, Markham.
Q Is your father alive? A Yes, sir.
Q Give me the name of your mother? A My mother's name is Polly Alberty.
Q Is your mother living? A No, sir, she is dead.
Q How long has she been dead? A She died time of the war.
Q Give me the name of your wife? A Charlotte Markham.
Q How old is your wife? A About 37.
Q Do you claim that she is a Cherokee Freedman of her own right? A She got on the Wallace roll.
Q When did you and she marry? A We have been married about 15 years.
Q Have you a certificate of marriage? A No, sir.
Q Has your wife lived in the Cherokee Nation all her life.
A Yes, sir.
Q Give me the name of your wife's father. A Joe Vann.
Q What is he alive? A No, sir, he is dead.
Q Give me the name of your wife's mother? A My wife's mother was named — I disremember now what her mother's name was.
Q Is she dead? A Yes, sir, she is dead.
Q How long has your wife's father been dead? A Been dead about ten years.
Q How long has your wife's mother been dead? A I don't know how long she has been dead, my wife's mother, she died before me and her married.
Q Give me the names of your children? A The oldest one is Addie.
Q How old is that child? A She is 10 years old; she is dead.
Q Give me the name of the next child? A Joe.
Q How old is Joe? A Joe is five.
Q The next child? A That is all.
Q Joe is living now, is he? A Yes, sir.
Q Who is there here who knows that you and your wife have been living together as husband and wife? A Jerry Alberty.

Jerry Alberty, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give me your full name? A Jerry Alberty.
Q How old are you? A About 36.
Q What is your post office? A Wagoner.
Q How long have you lived in the Cherokee Nation? A I was born and raised here.
Q Do you know this applicant here? A Yes, sir.

John Markham - 2.

Q How long have you known him? A Knewed him ever since he was a baby.

Q Is he married? A Yes, sir.

Q How long have you known his wife? A Knewed her ever since she was a baby.

Q What was her name when he married her? A Charlotte Wann.

Q How long have he and his wife been married? A I can't tell you exactly, ten or twelve years I guess.

Q Was he ever married except to this wife? A No, sir.

Q Was she ever married except to him? A No, sir.

Q Have they been living together as husband and wife ever since they were married? A Yes, sir.

Q And all the time in the Cherokee Nation? A All the time right in the same place.

John Markham, recalled, testified:

Q You say you were never married except to this woman? A No, sir.

Q Was she ever married except to you? A No, sir.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.

The 1896 census roll of Cherokee Freedmen examined, and the applicants not identified thereon.

The Kerns-Clifton pay-roll examined, and the applicant, John Markham, identified thereon, page 104, No. 2611, Cooweescoowee district.

Charlotte Markham not on Kerns-Clifton roll.

Q You are too young to remember where you were during the war?

A Yes, sir, I don't remember a thing about the war.

Q Was your mother a slave in old days? A Yes, sir.

Q To whom did she belong? A One of the Albertys.

Q Do you remember what Alberty she belonged to? A I think to Will Alberty.

Q He was a Cherokee citizen was he? A Yes, sir.

Q Lived here in the Cherokee Nation? A Yes, sir.

Q Where did he live? A I don't know where he lived.

Q And your father, to whom did he belong? A He belonged to Alberty.

Q The same man? A Yes, sir.

Q Is William Alberty dead? A Yes, sir.

Q Is his wife dead? A I think so, I don't know.

Q Has William Alberty got any children living? A I don't know, sir, you will have to call up my witness, Jerry Alberty.

Jerry Alberty, being recalled, testified:

Q You say you have known the applicant ever since he was a boy?

A Yes, sir, ever since he was born.

Q Where was he born? A In the Choctaw Nation; he was born in 1864.

Q Slavery hadn't been abolished down there at that time? A No, sir.

Q To whom did he belong at that time? A Will Alberty.

Q Did his mother belong to William Alberty? A Yes, sir.

Q His father belonged to William Alberty? A Yes, sir.

Q How long has William Alberty been dead? A He has been dead ever since 1868 I believe.

Q Was he a Cherokee refugeesing down there? A Yes, sir.

Had his slaves with him? A Yes, sir.

Q Where did Alberty live up here in the Cherokee Nation? A Up here on the river in Cooweescoowee district.

Q Has he any children living? A No, sir.

Q None that you know of? A Nary one.

Q When the war closed did he come back to the Cherokee Nation with his slaves, or those that had been his slaves? A Yes, sir.

John Markham - 3.

Q He brought this man along, did he? A Yes, sir, him and his mother.

Q When did they come back? A He brought them back in 1866; he moved back here in 1865 and made a place up to Webbers Falls and made a crop there in 1866.

Q This man came along? A Yes, sir, his mother brought him a baby.

Q You say this yourself? A Yes, sir, they come right along with me.

Q That was in 1865? A In 1866.

Q So after the fighting stopped you still stayed about a year in the Choctaw Nation? A No, that was at Webbers Falls in the Cherokee Nation.

Q You were in the Cherokee Nation when the war stopped? A No, sir.

Q Did you come back here before the war stopped? A Yes, sir, we were in the Choctaw Nation at the close of the war.

Q And you stayed there a while for things to settle down? A Yes, sir, stayed there till 1865 and then we commenced to move out, and the second trip we moved his mother; the first trip I just moved some of the plunder.

Q And his mother you say came in 1866? A Yes, sir.

Q What time in the year? A Along in about February.

Mr. Hastings, a attorney for Cherokee Nation: Has the applicant here been in the Cherokee Nation ever since? A Yes, sir.

Q Has he lived right around here? A Lived right around in the neighborhood, his uncle raised him.

Q What is his uncle's name? A Fed Markham; his mother died at Gibson at the time of the cholera and his uncle taken him; he ought to be enrolled with his uncle Fed Markham, if he is enrolled at all.

Commissioner: Did you know the applicant's wife when she was a baby?

A Yes, sir.

Q Where was she born? A Born right up here on the river near the old salt lick there.

Q Was she born after the war? A Yes, sir.

Q Did you know her mother? A Yes, sir, I knowed her, I wasn't very well acquainted with her; I knowed her father very well.

Q You don't know when her father and mother married? A No, sir.

Q You don't know who her mother was before she married? A No, sir, I don't know her.

Q And don't know anything about her? A No, sir.

Q Now the applicant's father, you say his name was Joe Vann?

A Yes, sir.

Q To whom did he belong before the war? A Old Dave Vann.

A He was a Cherokee citizen, was he? A Yes, sir.

Q You know that Joe Vann lived in the Cherokee Nation do you?

A Yes, sir.

Q Where did he go during the war? A Went north.

Q Do you know when he came back from the north after the war?

A No, sir, I don't.

Q So you cant give any evidence on that subject? A No, sir.

The 1880 authenticated roll of Cherokee Freedmen examined, and the father of applicant, Emory Kirk, not found thereon.

Commissioner Breckinridge: The applicant applies for the enrollment of himself, his wife and one child. The applicant states that he has lived in the Cherokee Nation all his life. He is not identified on the roll of 1880, or on the roll of 1896. His mother is said by him to have died during the war and by a witness to have died some years after the war. The

John Markham - 2.

applicant's father is not identified on the roll of 1880, nor is the applicant identified on the roll of 1896. He is identified on the Kerns-Clifton roll. The witness testifies that the applicant's mother returned to the Cherokee Nation in 1886, in the month of February. He will now be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of his case. He and his wife are shown to have been married some ten, 12 or 13 years ago. It is stated that neither was previously married, and that they have lived together ever since their marriage. There is no evidence in support of her possessing Cherokee rights of her own right, but she will be listed for enrollment as a Cherokee Freedman by intermarriage on a doubtful card. For the further consideration of the rights of her husband and of her rights under the statute of intermarriage. When the Commission is supplied with a certificate of the birth of the child, Joe Markham, this child will also be listed for enrollment as a Cherokee Freedman on a doubtful card with its father and mother

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones
Sworn to and subscribed before me this the 22nd of April, 1901.

W. H. Markham
Commissioner.

52-2

RECEIVED
COMMUNICATIONS SECTION

FILED
APR 20 1951

[Signature]
ALFRED CHARVAT

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date APR 20 1901

Post Office

Wagoner

District

Coo

1. Name

John Markham

Age

38 (37)

Owner's name

William Albert

Citizenship

Cherokee

Year

KC

Page

104 No. 2611

District

Coo

Parents:

Father

Emory Kirk

Citizenship

Col

Mother

Pollie Albert

Citizenship

Col D

2. Name of wife

Charlotte Markham

Age

37

Owners name

William Albert

Citizenship

Cherokee

Year

Page

No.

District

Parents:

Father

Joe Vann

Citizenship

Col

D

Mother

Bessie Vann

Citizenship

Col

D

Names of Children:

3.

Joe Markham

Year

Page

No.

Dist.

10

4.

Year

Page

No.

Dist.

5.

Year

Page

No.

Dist.

6.

Year

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7.

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Year

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No.

Dist.

11.

Year

Page

No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

No (1)

Stenographer

Jones B. G.

(3)

Proof of Birth to be filed

Cherokee Freedmen
D 129

20

IN RE

Application for Enrollment of

INFANT CHILD

for Mark Ham

as a citizen of

Cherokee

Nation

Approved

June 10 1901

E. S. Needles

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

June 10, 1901

CHAIRMAN

Copy

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Joe Markham (Here insert name of child.) born on the 24 day of October, 1895
Name of Father: John Markham a citizen of the Cherokee Nation.
Name of Mother: Charlotte Markham a citizen of the Cherokee Nation.
Postoffice Wagner, S. I.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Charlotte Markham, on oath state that I am 37
years of age and a citizen by adoption of the Cherokee Nation;
that I am the lawful wife of John Markham who is a citizen, by
adoption of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 24 day of October, 1895; that said child has been named
Joe Markham, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

G. W. Graham
E. Steele

Subscribed and sworn to before me this

5

day of

June1901

(Seal)

G. W. Graham
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Ruth Alberty, a midwife, on oath state that I
attended on Mrs. Charlotte Markham, wife of John Markham
on the 24 day of October, 1895; that there was born to her on said date a male
(Male or Female.)
child; that said child is now living and is said to have been named Joe Markham

WITNESSES TO MARK:

(Must be Two Witnesses.)

G. W. Graham
E. Steele

Subscribed and sworn to before me this

5

day of

June1901

(Seal)

G. W. Graham
Notary Public.

66

1

PA. UNION, ED TRIBES.

NOTES FROM THE
RECORDS OF THE
BUREAU OF INDIAN
AFFAIRS.

THE BUREAU OF INDIAN
AFFAIRS, DEPARTMENT OF THE
INTERIOR, WASHINGTON, D. C.

1881

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 26, 1901.

In the matter of the application of Charlotte Markham for the enrollment of herself and her niece, Alice Vann, as Cherokee Freedmen; said Markham being duly sworn and examined by Commissioner Needles, testified as follows:

- Q What is your name? A Charlotte Markham.
Q How old are you? A I am 31 years old 4th day of last August.
Q What is your post office? A Wagoner.
Q Do you live at Wagoner? A No, sir; I live above Wagoner.
Q In the Creek Nation or Cherokee Nation? A Cherokee Nation.
Q You don't know the name of the district? A No, sir, I really don't.
Q Well, you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A I just wanted, I wanted you to see if my name is on the roll.
Q Well, suppose it is on there? A Why, I wanted to enroll a girl, Alice Vann.
Q Who is Alice Vann? A That's my niece, a girl I raised, Mr.
Q How old is she? A She is 17 years old.
Q Are you recognized by the Cherokee authorities as a Cherokee Freedman? A Yes, sir.
Q Have you ever drawn Cherokee money? A Yes, sir.
Q What was your mother's name? A Her name was Susan.
Q Susan what? A Susan Vann.
Q Is she living? A No, sir.
Q What is your father's name? A Joe Vann.
Q Is he living? A No, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A John Markham.
Q Is he a citizen? A Yes, sir.
Q Has he been enrolled by the Commission? A Yes, sir.
Q Why didn't he apply for you when he applied for himself?
A I don't know.
Q What was your niece's mother's name? A Lizzie.
Q Lizzie Vann? A Yes, sir.
Q Is she living? A No, sir, she is dead.
Q Her father's name Joe? A Yes, sir; my father is named Joe.
Q Who is her father? A Alice's father is Ben Vann.
Q Her mother is Lizzie Vann? A Yes, sir.
Q Is Ben Vann living? A Yes, sir.
Q Is he a Cherokee freedman? A Yes, sir.
Q Has he been enrolled, do you know? A I don't know whether he has or not, I think thought he has.
Q Was Lizzie Vann a Cherokee Freedman? A Yes, sir.
Q Was that the name she always went by? A Yes, sir, my father's name.
Q Lizzie Vann was your sister, was she? A Yes, sir.
Q Your husband is named John Markham? A Yes, sir.
Q MR. DAVENPORT, Cherokee representative:
Q How old would your sister have been if she were living?
A She would be 33, she is two years older than I.
Q Would she have been in Joe Vann or Joe Duff's family?
A Yes, sir, Duff that's my father's nickname.
Q Were Lizzie Vann and Ben Vann married? A No, sir.
Q COM'R NEEDLES: In your case there is no evidence as to you having any Cherokee rights? A My father was owned by old Dave Vann was his owner and Martha Vann was his Mistress, Joel Mayes' wife is my young Mistress.
Q David Vann was your brother was he? A Yes, sir.
Q How long has Lizzie been dead? A About 12 years.
Q Did you draw strip money for Alice Vann? A Her pappy drew it and made away with it.

Charlotte Markham, et al.--2.

Q You are a sister to Dave Vann? A Yes, sir.

Q Lizzie is a sister to Dave Vann? A Yes, sir.

The Kern-Clifton Roll of Cherokee Freedmen examined and name of applicant's niece found thereon, page 30, #754, Alice Vann, Cooweescoowee district.

Q Is Dave Vann living? A Yes, sir.

Q He is not here to-day? A No, sir, he ain't here to-day.

Q Now, in order to straighten you out and Alice out you ought to have Dave here; Dave would probably know more about it. Dave is on the roll, but as stated he is on the roll as an Intermarried man; if he is not a citizen neither you nor Lizzie would be citizens.

Q Do you know whether your mother was a slave or not?

A No, sir, I don't.

Q Where were you born? A I was born up on Chouteau Creek.

Q In the Cherokee Nation? A Yes, sir.

Q Is Alice Vann living now? A Yes, sir.

Q Living with you? A Yes, sir.

Q Her father has not enrolled her? (No response.)

Q And her father has already listed for enrollment? (No response.)

Q His name was Ben? A Yes, sir.

COM'R NEEDLES: Charlotte Markham applies for the enrollment of herself and her niece, Alice Vann. She is now married to one John Markham who is listed for enrollment on D. card #129. It appears that when the said John Markham applied for enrollment of himself he applied for the enrollment of his wife, Charlotte, but there is no evidence shown there as to Charlotte being a citizen of the Cherokee Nation. The evidence rather attempted to show that Charlotte was an Intermarried citizen. She now applies herself for enrollment. She avers that Alice Vann, her niece, is the daughter of Lizzie and Ben Vann. The mother of Alice to-wit: Lizzie, cannot be identified upon the authenticated roll of 1880. Ben Vann, her father, applied for the enrollment of himself and family, and was listed on straight card #794, but did not apply at that time for the enrollment of Alice Vann, whom it is averred is his child. It is averred that Lizzie Vann, the mother of said Alice, is now deceased, that she is an own sister to Charlotte Vann. It is averred that Lizzie and Charlotte are sisters of Dave Vann, and Dave Vann's name is found upon the authenticated roll of 1880 as a citizen by intermarriage, and is enrolled on straight card #625. Alice Vann is identified upon the Kern-Clifton payroll, and upon no other roll. Charlotte Vann, her aunt avers that Alice Vann is in her custody and that she has raised her. By reason of the fact that there is no evidence identifying Charlotte Markham, her name not appearing upon any of the rolls of the Cherokee Nation, and that Alice Vann is not fully identified as the child of Lizzie and Ben Vann, judgment as to the enrollment of said parties will be suspended; the said Charlotte Markham has been placed upon a doubtful card, No. 129. The testimony taken herein will be made part of the record in the application of John Markham on D. card #129, and a copy of this testimony will be filed in said case, and the said Alice Vann will now be listed for enrollment as a Cherokee Freedman upon a doubtful card awaiting further consideration of the proof as to her citizenship.

Charlotte, N.C., et al. - 3.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he has correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this October 3d, 1901.

[Signature]

Commissioner.

80129

Handwritten signature or initials.

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To be filed in F. D-129.

"R"
D 92.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., February 18, 1908.

In the matter of the application of Martha Gales to be enrolled
as a Cherokee Freedman:

Appearances:

Lewis T. Brown, agent, Vinita, I. T., for applicant;
James S. Davenport, Vinita, I. T., for Cherokee Nation.

Testimony on behalf of the Cherokee Nation.

Joseph Alberty, being sworn and examined, testified as follows:

- Q What is your name? A Jerry Alberty.
Q What is your post office? A Wagoner.
Q You live in the Cherokee Nation? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have lived
in there all my life. Born here and raised here.
Q Where were you living in 1866? A At Webbers Falls.
Q How far is Webbers Falls from Fort Gibson, Indian Territory?
A About 30 miles.
Q How long did you live at Webbers Falls after 1866? A One
summer.
Q During the time that you lived at Webbers Falls where did you go
your trading? A At Fort Gibson.
Q When you moved away from there to what point did you go?
A Down on the river about six miles from Wagoner.
Q About how far was that from Fort Gibson? A That was about 22
or 23 miles from Fort Gibson.
Q Where did you do your trading after you moved down on the river?
A At Fort Gibson.
Q About how long did you live on the river near Fort Gibson? A
About two years.
Q Were you back and forth to and from Fort Gibson during that time?
A Yes sir. I did all my trading and milling and everything else
at Fort Gibson.
Q During the time that you lived there did you have an acquaintance
among the colored people at Fort Gibson? A Yes sir.
Q Did you know a colored woman named Martha Gales? During the time
you lived there on the river? A Not at that time.
Q Have you since that time become acquainted with her? A Yes sir.
Q Well you understand what years it was you lived on the river near
Fort Gibson; about 15 or 20 miles from there?
A It was '67 and '68 and a part of '69.
Q Since that time have you become acquainted with a woman named
Martha Gales and a man named Pomp Brown? A Yes sir.
Q When did you first get acquainted with them, and where were they
when you first saw them? A I never saw them at Fort Gibson
but once.
Q When was it you saw them at Fort Gibson?
A It must have been in '72 or '73; sometime about the 70s.
Q What were the circumstances under which you saw them that
called your attention to them?
A By the people there in the town. I made inquiry who they were.
Q Were they living there? A No sir they just come in.

Q How do you know they just came in?
A They came in and got off the stage.
Q Was there anything special that caused you to notice them and inquire as to who they were; did anything come up with reference to traveling, or anything?
A Nothing more than that the people appeared to be glad to see them.
Q Well now after you saw them there in 1870 get off the stage, where did you next see them, and where were they?
A I don't remember. I knew it was a good long while after that before I saw them again.
Q Who was it that you saw get off the stage? A Just the two.
Q Give their names? A Martha Brown and Pomp Brown.
Q You didn't see any one else? A That's all the two I saw.
Q The same woman goes by the name of Martha Gales? A Yes sir.
Q Do you know her now as Martha Gales? A Yes sir.
Q Do you know where they came from; did you have a conversation with them? A Not in particular.
Q When you next saw them after the time you saw them get off the stage at Fort Gibson where were they?
A I saw Martha Gales at Fort Gibson the next time I saw her. That was the time of the census roll there.
Q ~~Martha~~ The Clifton Roll? A I guess so.
Q Did you know anything about where she had been living in the meantime? A I think she had been living about Brushy Mountain.
Q Where did you next see Pomp Brown? A I saw him so many times I can't tell you where the first place was.
Q Do you know where he was living? A At Vinita a while. I saw him at Vinita and I thought I saw him here in a barbershop.
Q Do you know where Martha or Pomp Brown had been?
A No sir.
Q That was the first time you ever saw them? A Yes sir.
Q You had been back and forth to Fort Gibson trading ever since 1866 up to the time you saw them get off the stage, and never saw either of them before? A No sir. That's the first time I ever saw them.

Examined by Lewis T. Brown:

Q Where did you say you lived during the years 1867, 68 and 69?
A I lived in 1867, 68 and part of 69 down here on the river, and then moved beyond the creek, down near Will Liberty's old place.
Q How far is that from Fort Gibson? A Twenty some odd miles.
Q About twenty how many? Is it 25 or 23 or 24?
A It is called twentyfive miles.
Q When you told Mr. Davenport it was 15 or 20 miles from Fort Gibson you were mistaken were you, not? A Well I was just guessing at it just as I am doing now. I don't know yet how far it is.
Q When was it you say you saw them in Fort Gibson?
A I can't state the year exactly; sometime about the first of the 70s, 73 or 74.
Q You stated a while ago that it was 73 or 75 didn't you?
A It was somewhere along there. I think I was living beyond the creek at that time.
Q When was it you say you next saw Martha Gales? A I saw her at the Clifton enrollment at Fort Gibson.
Q Well now where did she live from 73 or 75 when you claim you saw her at Fort Gibson until you saw her in 1896 at the Clifton court?
A I can't tell you.
Q What's your information? A They said at that time that she was living over about Brushy Mountain.
Q That's in the Cherokee Nation isn't it? A Yes sir.

Q Why do you remember seeing her so well, you say you do not remember who else got off the stage except them? What impressed that upon your mind that you should remember that for 30 years?

A Seeing them get off?

Q Yes sir. A I seen him get off and the reason why I know it, people were shaking hands with him and caused me to make inquiry you know.

Q Uncle Jerry did you ever see another man get off the stage in your life? A Oh yes lots of them.

Q Did you remember when they got off the stage?

A I remember some of them.

Q In 1873 and 1875, as you claim, there was no railroad going into Fort Gibson? A No sir.

Q Any one going for any point to Fort Gibson would necessarily have to come in there by wagon road? A Yes sir.

Q When was it you next saw Pomp Brown after 1873 or 1875? A I can't tell you the next time I saw him, but I saw him in a barbershop.

Q Whereabouts? A In Muskogee or Vinita I don't know which.

Q What year was it? A I don't know. I don't know ~~what~~ what year it was.

Q You remember when you first saw him? A Yes sir.

Q Then why is it you cannot remember when you next saw him?

A I didn't keep no record of it.

Q Did you keep a record of the first time? A I was keeping a record at that time.

Q For what purpose? A I kept it in my mind. It was right after the war at that time. After 1866 I kept time pretty well.

Q For what purpose were you keeping a record as to when Pomp Brown came to the Cherokee Nation? A I kept a record of how many years I stayed at the river place and at the old place, and after that time I never kept a record.

Q For what purpose were you keeping a record as to when Pomp Brown returned to the Cherokee Nation? A I never had any.

Didn't I tell you it was on account of people being glad to see him the reason I made inquiry?

Q The reason you remember it is that people were glad to see him?

A I says "Who is them folks"; and they says "Pomp Brown and his aunt", or some of his relations. Then Henry Scales made a remark about his trunk. He had a trunk he wanted somebody to haul, and Henry Scales made a remark about the trunk. He was trying to hire somebody to haul it to some house, and Henry Scales told him he says --

Brown: Don't repeat anything Henry Scales said. The question is objected to. Comes now the applicant and objects to the witness being allowed to relate any conversation that Henry Scales might have had with Pomp Brown for the reason that it is hearsay evidence and for the further reason that Pomp Brown and Martha Gales are both dead, and neither can be here to affirm or deny witness' statement.

The Commission: The objection will be noted. The witness will be allowed to answer the question.

Mr. Davenport: You started to tell about a trunk, go ahead?
 A That's my reason why to know that.
 Q Tell what they said to each other. That's what you started to say.
 A Soles asked him "Why don't you carry your own trunk?" He said "I am not going to carry it as long as I get money". He said "Look here nigger before you been here six months you will take your trunk on your shoulder and pack it yourself". By that reason I got to making inquiries. You wanted to know why I made inquiry about him.

Examined by Lewis T. Brown.

Q You remember that conversation that took place 30 years ago?
 A Yes sir.
 Q Uncle Jerry how many years was it from the time you first saw Pomp Brown at Fort Gibson until you saw him again?
 A I can't tell you.
 Q About how long? A 4 or 5 years. Maybe longer.
 Q Where was he then? A In a barbershop, I can't tell you where it was.
 Q Where were you living then? A Here on the creek.
 Q You don't remember when you saw him? A I saw him the next time in a barbershop.
 Q If in 1872 or 1873 Pomp Brown had been going to Fort Gibson from either Vinita or Muskogee, wouldn't it have been necessary for him to have taken the stage in order to go there? A Of course.
 Q In order to go from any point in the Cherokee Nation wouldn't it have been necessary for him to have taken the stage to go there?
 A Yes sir.
 Q Mr. Alberty you know Mary Greggs a white woman who lived down near Webbers Falls? A No sir.
 Q Where were you living in 1866? A Near Webbers Falls.
 Q I will ask you if at that time a woman named Mary Greggs wasn't living there and is living there to-day?

Question objected to by attorney for the Cherokee Nation, and the objection sustained by the Commission.

Q Uncle Jerry did you know everybody that was in Fort Gibson in the fall of 1866? A No sir, never knowed all of them.
 Q There was a great many people there at that time that you didn't know? A Lots of them.
 Q Are you prepared to state that in the month of November, 1866, Pomp Brown was not in Fort Gibson? A No sir.
 Q Did you know Bill Brown during his lifetime? A Yes sir.
 Q He was there during that time? A I think he was, I wasn't acquainted with him at that time. I heard the name called a right smart, but I wasn't acquainted with him.

Examined by Mr. Davenport:

Q You don't know of your own knowledge where Bill Brown was until you got acquainted with him? A No sir. First time I saw him was right here.

By Lewis T. Brown: When was that? A Along in 1878 or 1879.

The Commission: This testimony will be made a part of the record in the following Cherokee Freedman cases: D 93, D 94 D 236.

-3-

Lewis T. Brown? In cases B-84 and B-85 applicant objects to this testimony being thrown into it, for the reason that he has never been notified that this testimony would be taken on this day. And for the further reason that he has additional evidence which he intends to introduce, and has only been waiting until notice has been served upon him that the Cherokee Nation would present their testimony to produce it.

The Commission: It appears from the records of the Commission that the agent of the applicants Martha Sales and Susan Brown is also agent for the applicant Ella J. Hill whose name appears upon B-856, and that applicant is representing himself in case No. B-84; consequently the testimony will be filed in said cases.

E. G. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of his stenographic notes thereof.

E. G. Bagwell

Subscribed and sworn to before me this February 26, 1902.

T. B. Needles,

Commissioner.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing and that the same is a true and correct copy of the original transcript.

E. G. Bagwell

Subscribed and sworn to before me this 25th of July, 1902.

[Signature]

Notary Public.

29

7/11/1902

COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

JUL 1 1902

[Handwritten signature]

NOTICE!

IN THE MATTER OF the application of John Harkness
for enrollment as Cherokee Freedmen:

Case No. F. D. 129

To John Harkness, or L. T. Brown, his Attorney:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on March 3rd, 1905, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Feb. 26, 1905.

L. B. Bell

W. W. Hastings

Jas. S. Davenport
Attorneys for the Cherokee Nation.

F. D. 129

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned *Agent* for the
within named applicant, hereby accept
service of the within notice on this the

28 day of *Feb*, 190*2*
James Brown
Agent for applicant.

UNITED STATES OF AMERICA, } S. S.
INDIAN TERRITORY, }
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190.....

Subscribed and sworn to before me
this

Notary Public.

DEPARTMENT OF THE ARMY
COMMISSION TO THE FIELD

FILED

JUN 28 1902

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1903.

In the matter of the application of Charlotte Markham for the enrollment of herself as a Cherokee freedman.

Applicant appears by Lewis T. Brown: Cherokee Nation by Hastings and Davenport. Testimony in behalf of applicant.

Commission: The tribal rolls of the Cherokee Nation examined and the applicant identified on the Wallace Roll of Cherokee freedmen in Cooweescoowee District, No. 5251.

Jerry Butler, being sworn and examined, testified as follows:

By Lewis T. Brown: State your name? A Jerry Butler.

Q What is your age? A 44.

Q What is your postoffice address? A Chouteau.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Do you know the applicant, Charlotte Markham? A Yes sir.

Q Did you know her father? A Yes sir.

Q What was his name? A Joe Vann.

Q Did you know her mother? A Yes sir.

Q Was her father a slave of a citizen of the Cherokee Nation at the beginning of the war? A That is what they said.

J. S. Davenport: Do you know it yourself? A I don't know.

Lewis T. Brown: Did you know her father before the war? A No sir.

Q Did you know her mother before the war? A No sir.

Q When did you see her parents in the Cherokee Nation after the close of the war? A Right after the war, it was either in '67 or '68. I and Joe Vann, we called him Joe Duff, we worked together in the field; I was hired by a white man and so was he; we worked in the old Albrty field, it was known as the Bumgarner field, and I don't remember which one of those dates. I was a little boy and Charlotte here was a little bit of a baby, just a little thing. Shortly after that her mother died and he, Joe Vann, lived up in the bottom with these children; that little girl is now named Rachel Sheppard; she taken care of the children, she nursed them around there.

Q Did Charlotte Markham have a sister? A A sister named Lizzie.

Q Is she living or dead? A She is dead.

Q Did she ever have any children? A She has one.

Q What is its name? A Alice Vann.

Q Where was Alice Vann born? A She was born within a quarter of a mile of the old Bryant Salt Licks if I mistake not.

Q Have Charlotte Markham and Alice Vann had continued residence in the Cherokee Nation since '67 or '8? A Ever since I have known them they have lived there.

Q Have you known Alice Vann all her life? A Yes sir.

Q Has she lived in the Cherokee Nation all that time? A Yes sir, she never was out of that.

J. S. Davenport: When did you first know Alice Vann? A When she was a baby I knew her.

Q How long ago has that been? A That has been 16 or 17 years.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 20th day of June, 1903.

[Signature]
Notary Public.

Case of Charlotte Markham continued.

Johnson Vann, being sworn and examined, testified as follows:

By Lewis T. Brown: State your name. A Johnson Vann.

Q What is your age? A 59.

Q What is your postoffice address? A Chouteau.

Q Are you a recognized citizen of the Cherokee Nation? A Yes sir.

Q Is your name on the authenticated roll of 1880? A Yes sir.

Q Do you know Charlotte Markham? A Yes sir.

Q Did you know her father? A Yes sir.

Q To whom did her father belong at the close of the war? A To Dave Vann.

Q When did you see the father of Charlotte Markham in the Cherokee Nation for the first time after the close of the Civil War? A The first time I saw her father was in 1866.

J. S. Davenport: You say you took her father in 1866 -? A I said I seen her in 1866.

Q Where did you live in '66? A I didn't have no home in '66, I was rambling around through the country one place and then another, I stopped on the river and made a crop.

Q What river? A Grand River.

Q Whereabouts on Grand River did you stop and make a crop in '66?

A Just above Dave Tadpole's.

Q In the Indian Territory? A In the Indian Territory.

Q Where from Fort Gibson? A Up above here.

Q How far from where Jerry Alberty lived? A About six miles.

Q In the same neighborhood practically? A Yes sir.

Q And made a crop in '66? A No, I knocked around, in '67 I made a crop up there; in '66 I didn't work anywhere.

Q Now in '66 --? A You know I was here.

Q No, I don't, I wasn't born here? A You weren't?

Q Did you make a crop on Grand River in '66 or '67? A The next year after I come out here.

Q What year was that you made a crop on Grand River? A I don't remember the exact year; in '67 I made a crop up where Mr. Mayes was.

Q Did you live near him the first year or after that? A The first year I lived near Jerry.

Q That is where you saw Charlotte Markham's father? A Yes sir.

Q What was his name? A Joe Vann.

Q Now where was Joe Vann living, her father? A He wasn't living anywhere, he didn't have any place in the country then, he didn't have no stopping place.

Q Just floating and a drifting about? A Yes sir. He never had no home; he just built little places everything where he went.

Q In '66 where did he build a place? A He never built a place in '66.

Q Where did he live in '66 and at whose house? A I met him on the river in '66 and me and him hopped on the river, and he went up in that bottom and built him a little place and lived there.

Q Near what place did he build this little place? A The old Harlan place in '66.

Q Who lived there then? A He lived there himself.

Q How far was this place from Chouteau in '66? A It must be three miles.

Q Where did Jerry Alberty live at that time? A He was, if I make no mistake, he was down below here somewhere.

Q When did Jerry Alberty come up in that neighborhood? A He come up in that neighborhood in '67.

Q Where was this man Charlotte Markham's father when he come up there? A I don't know just where he was living; that has been a long time; I couldn't just tell you where he was living.

Q Where was he living in '67? A He had a place out by Timbered Hill in '67.

Q How do you know? A I went there and looked at it.

Q Where did he live in '68? A He lived

2-Charlotte Markham-

Q Where did he live in '88? A He lived right down on what is called the Jack Campbell place, on the other side of the river.

Q Where did he live in '89? A He still lived there.

Q In '89 where did he live? A I don't know.

Q What year was the Wallace Roll made? A He died before that.

Q What year was the Wallace Roll made? A I don't know.

Q What year was the Kern Clifton Roll made? A I don't know.

Q Do you know what year this is? A I got to study first before I can tell you. This is 1902.

Q Now when were you married? A I don't know that.

Q Don't you remember the night you got married? A I remember the night, but I aint here to tell you about that.

Q How is it you can't remember a year that was an important event of your life, and then tell us you remember of meeting a man in '66? A A marriage was a different thing.

Q And the most sacred thing that ever occurred in a man's life? A My wife has been dead; I lacked four months in being married ten years.

Q Were you married in '66? A I was married before '66.

Q Were you married in '65? A I don't know that.

Q What do you know? A I know when my first child was born.

Q You say you saw Jerry Alberty up there where that fellow lived not until '67? A Yes.

Q Was Joe Vann living there in '67 when Jerry was up there? A I don't know, it was none of my business, I have to attend to my affairs; I had a family to raise and I was looking after them. I will tell you one thing he lived right where I lived on the other side of the river for a while, the time they had him arrested.

Q What year was it they had him arrested? A I don't know.

Q You can't tell the year? A No sir, I can't read and write like you.

Q How do you know it was '66 you met him on the river? A Because I know it was.

Q Why can't you tell the year he was arrested as well as you can tell it was '66? A I can't tell you.

Q It was more important for you to swear that he was here in '68 than you could tell when he was arrested? A Well I don't know.

Q Wasn't it more important for this woman's case that you saw her father in the Cherokee Nation in '66 than it is for you to remember any other date in your life? A No sir, it isn't.

Q Why do you assume and remember that year that you saw him and no others? A I saw him other years.

Q What year was it after that? A I saw him every year.

Q Tell me one of them? A '67.

Q You are sure you saw him in '67? A Yes sir.

Q Where was he then? A He was on the river with me.

Q Living with you? A He was living on my place.

Q You came down here when to testify in this case? A I never come at all.

Q When did you find out that you were going to be called as a witness in this case? A I didn't know I was to be called in this case at all.

Q You knew you were to be called some time to-day didn't you? A No sir.

Q When did you first learn that they wanted you as a witness in this case? A She come here to-day, the first time I have seen her and she asked me did I know her father, when he come here and I told her I did.

3-Charlotte Markham-

- Q When was Charlotte born? Was she born after you met him up there in '66? A Yes sir.
- Q Was he married at the time you met him up there in '66? A Yes sir.
- Q Have his wife with him? A Yes sir.
- Q How were they travelling when you met them? A He had a wagon.
- Q Were they coming toward Fort Gibson or going from it? A Coming toward Fort Gibson; they were coming toward the river.
- Q How old is Charlotte now? A I do not know; she is twenty some odd years old.
- Q Don't you know that Charlotte was born before the close of the war? A No sir.
- Q And you don't know that she was 37 years old last year when she made her application? A I tell you what I know.
- Q That is what I want you to do: I will hurry with you; I want to know what you do know? A I will do that if I can.
- Q Alright? Was Charlotte born before the close of the war? A She wasn't born, sir.
- Q She wasn't born when you met them there in '66? A No sir, she wasn't born.
- Q Then she has lied when she says she was? A Of course, that child couldn't tell when she was born.
- Q Her parents could tell her? A Her mother died when she was a baby and her father died before she was grown.
- Q What year did her father die? A About three years before the Wallace Court.
- Q When was that? A I told you a while ago that I didn't know.
- Q You don't know when it was then do you? A I don't know when it was because my wife dead a year before the Wallace Roll.
- Q Wasn't Charlotte very near a grown woman when her father died? A She was nearly about grown, and her mother died when she was quite a child.
- Q She was a grown woman and big enough to remember what her father told her? A I can tell you what I know.
- Q You don't know how old Charlotte is do you? A No sir, not exactly.
- Q You don't know when her father came back to the Cherokee Nation do you? A Yes, I do; he had a way that I know he came back here then.
- Q And when you heard him you knew what year he came back in? A Yes sir.
- Commission: It appears from the Wallace Roll of Cherokee freedmen that the applicant was when said roll was compiled 19 years of age.
- Applicant recalled and examined by Lewis T. Brown: Are you the applicant in this case? A Yes sir.
- Q Do you know your age? A Yes sir.
- Q How old are you? A 33 years old this last August, will be 33 this coming August.
- Q Your husband John Markham made your application? A Yes sir, he made my age wrong, he had forgotten.
- J. S. Davenport: You don't know anything about where you were born? A Yes sir.
- Q You were present when you were born? A I heard father say when I was born.
- Q Then Johnson Vann was mistaken when he said you didn't know where you were born? A I suppose he was.
- Lewis T. Brown: Where did your father say you were born? A He said I was born on Chouteau Creek in the Cherokee Nation.
- Jerry Alberty recalled by the representative of the Cherokee Nation:
- W. W. Hastings: What is your age? A 67.
- Q When did you come back to the Cherokee Nation after the war? A I come back in '65.
- Q Where did you live in the year '66? A At Webbers Falls.
- Q When did you move away from there? A Moved away in the winter of '66.
- Q Where did you go? A Went down on this Gaylor place.

Q How far is that from Chouteau? A It must be about 16 miles.
Q Was that on the river? A Yes sir.
Q When was the first time you ever saw Joe Vann or Joe Duff after the war? A It was about '69 the first time I saw him.
Q How long did you stay on the old Will Alberty place down there?
A I stayed there two years.
Lewis T. Brown: What direction is that place from Fort Gibson? A It is pretty near north.
Q How far is it from Fort Gibson? A About 16 miles.
W. W. Hastings: Is that up the river from Fort Gibson? A Yes sir, right up the river.
Lewis T. Brown: On what place was this man living when you first saw him? A He was living on Brushy.
Q Were you living up in that country in 1866? A No sir.
Q About how far from there were you living from them in that year?
A At Webbers Falls.
Q About how far is that from the place where you first saw Joe Vann, the father of this applicant? A At Brushy.
Q How far was it from the place you first saw this man, Joe Vann?
A It must have been 55 miles.
Q You don't know where this man Joe Vann was living in '66? A No sir.
Q You don't know when he returned to the Cherokee Nation? A No sir.
Q You are not willing to swear he didnot return in 1866? A No sir.
Q You didn't know everybody within a radius of ten or fifteen miles did you? A No sir.
W. W. Hastings: How far is the Will Alberty place where you moved in 1867 from Brushy? A It must be about 13,-15 miles I guess.
Q Did you know Joe Vann before the war? A Yes sir.
Q Well acquainted with him? A Yes sir.
Q And you never saw him until '69? A About '69, after the war.
Q Were you at Fort Gibson during the year 1866? A Yes sir, I was there pretty often.
Q And you never saw Joe Vann until '69? A No sir.
Lewis T. Brown: How do you fix that date, Uncle Jerry?, when you first saw Joe Vann in '69? A That is about the time; I don't know what time of the year, it was in that year.
Q How do you fix the year, how do you know it wasn't '68 or '67?
A It wasn't '67.
Q How do you know it wasn't? A Because I never went up there much that time, for I moved from Webbers Falls the latter part of '68, it must have been about January.
Q What place did you live before you moved to the Will Alberty place? A At Webbers Falls.
Q I will ask you that if in the matter of the application of Lewis T. Brown you didn't make this statement in answer to the question propounded by you: "Where did you say you lived in the years 1867-8-9", you didn't make this answer: "I lived in 1867, '68 and part of '69 down here on the river and then moved beyond the creek down near Will Alberty's old place". A I moved on the creek in the winter of '69.
Q In what year did you move to the Will Alberty place? A I went there in '67, in the fall, about January.
Q Did you make that statement which I have read to you? I will read it again: "I lived in 1867, '68 and part of '69 down here on the river and then moved beyond the Creek down near Will Alberty's old place". A I couldn't tell you exactly, I may have done it.
Q If you made such a statement is that true or not? A I couldn't saw whether it was true or not, I was just guessing at the time. I never had the time perfect.
Q What year was it that you were on the place that Joe Vann lived immediately after the war? A He wasth living, he wasn't making his home, he was living on Brushy.

5-Charlotte Markham-

Q What year was that he was living on Brushy? A In '69.

Q How long had he been there? A I couldn't tell you, I just happened up there and saw the folks.

Q That is the first time you had been up there yourself? A No, I was there several times at the old Salt Licks; that was the first time I saw him; they just lived wherever they could get a place to live.

Q What I want to get at is this, where did you live immediately before you lived on the Will Alberty place? A I lived at Webbers Falls.

Q That is fifty miles south of where you found Joe Vann in '69, is it not? A Yes, over fifty miles, I guess; they call it forty miles to Fort Gibson I think, and that is about fifteen miles above Fort Gibson.

Q I will ask you that if in the matter of the application of Lewis T. Brown you didn't testify on the 18th day of February, 1902, "that in the year '67, '68 and part of '69 that you lived on the river near Fort Gibson"? A I never did live only at Webbers Falls and Will Alberty's place and the place I am living now after the war.

Q Did you make that statement? A I never that I know of.

Q You lived fifteen or twenty miles below Fort Gibson? A No sir.

Q You lived at Webbers Falls? A That is over fifteen miles from Fort Gibson.

Q How far is it? A It must be thirty miles.

Q Then you lived on the Will Alberty place in the year 1867, '8 and '69, is that correct? A Yes sir.

Q Are you positive about that? A My family lived there, I was up making a place of my own; we made two crops there and they lived there until I made a place of my own.

Q Where were you making a place of your own? A On Flat Rock.

Q How far was that from Will Alberty's place? A About four miles.

Q How far from where you first saw Joe Vann? A That is the same place as where I saw Joe Vann.

Q I will ask you at the same time and same place if you didn't make this statement "I lived in '67, '68, '9 down here on the river and then moved beyond the creek down near Will Alberty's place? A No sir, I don't believe I made any such statement.

J. S. Davenport: What do you call Flat Rock, a Creek or what? A It is a creek.

Lewis T. Brown: Applicant's attorney requests that a copy of the evidence of Jerry Alberty had in the matter of the application of Martha Gales to be enrolled as a Cherokee freedman, taken at Muskogee, I. T., on the 18th day of February, 1902, be filed with and made a part of the record in this case.

W. W. Hastings: The representatives of the Cherokee Nation cheerfully consent.

Commission: This testimony will also be filed with and made a part of the record in the cases of Alice Mann, D-1069, represented by Lewis T. Brown.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 21st day of June, 1902.


Notary Public.

R.
Cher Y B 1266

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., June 30, 1902.

In the matter of the application of JAMES BULLETT, ET AL.,
for enrollment as citizens of the Cherokee Nation:

EMMET STARR, being duly sworn and examined by the Commission,
testified as follows:

- Q What is your name? A Emmet Starr.
Q What is your age? A Thirty one years.
Q What is your post office address? A Claremore, I. T.
Q Are you a citizen by blood of the Cherokee Nation?
A Yes sir, I am.
Q For whom do you desire to make application for enrollment?
A For the following named persons on the 1896 Cherokee roll,
their families and descendants:

- Q Are there any other persons for whom you desire to make appli-
cation for enrollment?
A I desire to apply for the following named persons on the 1880
Cherokee roll, their families and their descendants:

Sadie Kirk, page 5, # 33, O. R., Cooweescoowee District;
Ad. Col.

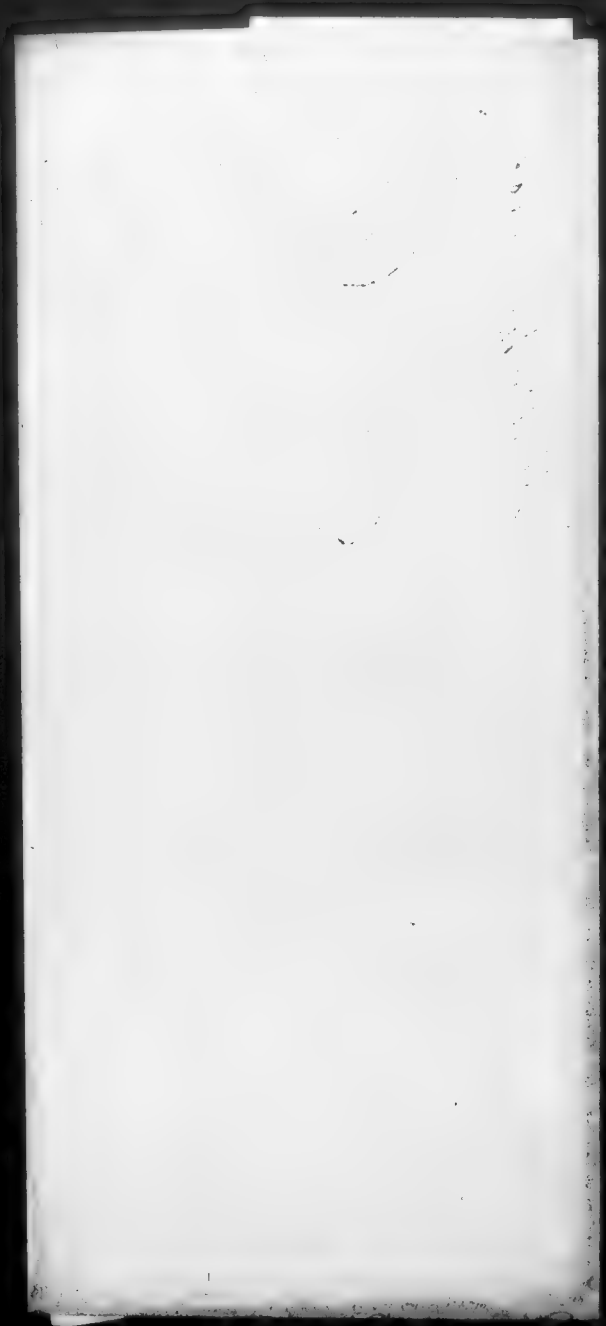
E. C. Bagwell, on oath states that as stenographer to the
Commission to the Five Civilized Tribes, he correctly recorded the
testimony and proceedings had in the above entitled cause, and that
the foregoing is an accurate transcript of his stenographic notes
thereof.

E. C. Bagwell

Subscribed and sworn to before me this August 18, 1902.

B. C. Jones

Notary Public.



DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, Indian Territory,
December 17, 1903..

SUPPLEMENTAL TESTIMONY AND PROCEEDINGS had in the matter of the application for the enrollment of John Markham, his wife and one child, as Cherokee freedmen.

It appears that on the 7th day of December, 1903, the principal applicant, his attorney, Lewis T. Brown, and the Cherokee Nation were duly notified by letter that an opportunity would be given them to appear before the Commission, at its offices in Muskogee, Indian Territory, on December 17th, 1903, and then and there introduce further testimony touching the matters stated in said letter.

Appearances:-- (Applicant appears in person .
(Cherokee Nation by J.S.Davenport.

John Markham, being first duly sworn, testified as follows:

By the Commission:

- Q What is your name? A John Markham.
Q How old are you? A About forty.
Q What is your present postoffice address? A Wagoner.
Q What is the name of your wife? A Charlotte Markham.
Q How old is she? A About twenty-seven I believe.
Q You have applied for the enrollment of yourself, your wife and one child as Cherokee freedmen? A Yes sir.
Q What was the name of your wife's father? A Joe Vann.
Q Is he living? A No sir, he is dead.
Q What was the name of your wife's mother? A Susan Vann.
Q Is she living? A No sir, she is dead.
Q Were either Joe Vann or Susan Vann slaves of Cherokee citizens at the commencement of the war? A I do not know.
Q Your wife Charlotte and your child Joe for whom you have applied are both living now and living with you, are they?
A Yes sir.
Q

Jerry Alberty, being duly sworn, testified as follows:

By Commission:

- Q What is your name? A Jerry Alberty.
Q How old are you? A About sixty-seven.
Q What is your postoffice address? A Wagoner.
Q Are you a recognized Cherokee freedman? A Yes sir.
Q Do you know the applicant John Markham? A Yes sir.
Q Do you know his wife? A Yes sir.
Q What is her name? A Charlotte Markham.
Q Do you know her father and mother? A Yes sir.
Q What were their names? A Her father was named Joe Vann, and I forget what her mother was named.
Q When did you first get acquainted with the father and mother of Charlotte Markham? A I got acquainted with Joe Vann, I couldn't tell you exactly when I did. But it was a good many years before the war. Joe Vann me and him lived right close together before the war.
Q And was his wife at that time the woman who is the mother of Charlotte Markham? A No sir, he never had that woman until after the war.

- Q Then when did you first know the mother of Charlotte Markham?
A About, it must have been about '72 or '3, as near as I can think back, the first time I ever saw her.
- Q You do not know then of your own knowledge whether she was ever a slave of a Cherokee citizen, do you? A No sir.
- Q Was Joe Vann a slave of a Cherokee citizen before the war?
A Yes sir.
- Q Whom did he belong to? A Dave Vann.
- Q Where did Dave Vann live when you first knew him? A Lived right on the east side of Grand River, about three miles of where Choteau is now, Choteau Station, when I first got acquainted with him.
- Q Then when you first got acquainted with him was Joe Vann living with him then as his slave? A Yes sir, he was living there when the war commenced.
- Q How long did you continue to know him before the war?
A Must have been four or five years, I lived right by them.
- Q And up until the beginning of the war was Joe Vann all of this time the slave of Dave Vann? A Yes sir.
- Q Dave Vann was always recognized, was he, as a citizen by blood of the Cherokee Nation? A Yes sir, he is a Cherokee by blood.
- Q Are either Dave or Martha Vann living now? A No sir.
- Q When did they die? A Dave Vann he got killed in time of the war, Pen Indians killed him right in his own house.
- By Mr. Davenport:
- Q How old was Joe Vann when the war broke out? A I do not know just how old he was, he had been married two or three times.
- Q You had been living by Dave Vann where Joe lived for about five years when the war broke out? A Yes sir, about a mile.
- Q On what place were you living? A On the Willie Alberty place, right at the old Salt Lick.
- Q You never saw the mother of Charlotte Markham until about '72?
A Must have been about '72 or '73, after the war.
- Q Do you know where she was raised? A No sir.
- Q Did you ever hear her say where she was raised? A No sir.
- Q Where did Joe marry her, do you know? A I do not know whether he married her in ~~Kansas~~ the Cherokee Nation or married her in Kansas.
- Q Did she and Joe live near you after you first learned to know her? A They lived about eight miles from where I did.
- Q You know, Jerry, that she was not a slave, don't you? A She may have been born in the war, I don't know.
- Q Don't you know that she was not a slave and didn't belong to anybody? A I don't think she did; I don't think she was a Cherokee freedman, I never heard her say.
- Q What year was Charlotte Markham born or about what year?
A I couldn't tell you.
- Q About how old is she now? A She must be 27 or '8, I don't know exactly what year she was born; I know about the time, but I couldn't tell you what year.
- Q Was the family living near you at the time of her birth?
A They lived within about eight miles of me.
- Q Was Joe living at the same place at the time of his death?
A I don't know exactly where he died. O, yes, he was not living a great ways from where his wife died.
- Q Was he and Susan living together at the time of her death?
A Yes, sir, they lived together until her death.
- Q You don't know what year that Joe Vann and Susan were married, if married at all? A No sir.
- Q You don't know whether they were married before or after the birth of Charlotte? A If they were married at all, they had one older than Charlotte, I do not know whether they were married at all.

or not; said to be married.

Henry M. Vance, being duly sworn, upon his oath, states that as stenographer to the Commission to the Five Civilized Tribes, he reported the proceedings had in this case on the 17th day of December, 1903; and that the above and foregoing is a full, true and correct transcript of his stenographic notes thereof.

Henry M. Vance

Subscribed and sworn to before me this 17th day of December, 1903.

Edward Merrick
Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

-c00-

In the matter of the application for the enrollment of Emory Kirk, et al., as Cherokee Freedmen, consolidating the applications of:

Emory Kirk, et al., Cherokee Freedmen D-782
John Markham, et al., " " D-129

---: D E C I S I O N :---

The record herein shows that applications were made to this Commission, for the enrollment as Cherokee Freedmen, by Emory Kirk, for himself and his wife, Evaline Kirk; and by John Markham (son of Emory Kirk) for himself, his wife, Charlotte Markham, and his minor son, Joe Markham. Application was also made for the enrollment of Alice Vann, as a Cherokee Freedman, but inasmuch as her application is differently classified, she is not included in this decision.

None of the applicants herein are identified upon the 1880 Authenticated Cherokee Roll, and although ample opportunity has been afforded said applicants to establish by satisfactory evidence their right to enrollment as Cherokee Freedmen, they have failed to do so.

The record herein shows that Evaline Kirk died on November 27, 1901.

Section 25 of the Act of Congress approved July 1, 1902, (32 Stats., 716), provides:-

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

It is therefore the opinion of this Commission that following the ruling of the Department in the cases of Eliza Bryant, et al., (I.T.D.544-1904), William Rector, (I.T.D.1468-1904), Minnie Duncan, et al., (I.T.D.1470-1904), Samantha Chambers, (I.T.D.2296-1904), Ed Williams, (I.T.D.4230-1904), Martha Albert, et al., (I.T.D.4732-1904) and Moses Ross, (I.T.D.6056-1904), the applications made for the enrollment of Emory Kirk, John Markham, Charlotte Markham, and Joe Markham, as Cherokee Freedmen, should be denied, under the provisions of Section 21 of the Act of Congress approved June 28, 1898, (30 Stats., 495), and it is so ordered.

It is further ordered that application made for the enrollment of Evaline Kirk, as a Cherokee Freedman, be, and the same is, hereby dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGN)

Tamc Dixby.

Chairman.

(SIGN)

T. B. Needles.

Commissioner.

(SIGNED)

C. R. Brockinridge.

Commissioner.

Muskogee, Indian Territory,

APR 22 1905

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 16, 1905.

SUPPLEMENTAL PROCEEDINGS, had in the matter of the application
for the enrolment of SUDIE KIRK as a Cherokee freedman.

APPEARANCES:

For Applicant, I. P. Bledsoe.
For Cherokee nation, W. W. Hastings.

JOHN MARCUM, being first duly sworn, testified as follows:

BY MR. BLEDSOE:

- Q What is your name? A John Marcum.
Q How old are you? A I am about 31 I guess.
Q Where do you live John? A In Cooweescoowee District.
Q Cherokee Nation? A Cherokee Nation.
Q Who raised you? A Fred Marcum.
Q Are you any relation to Emily Kirk? A Yes sir.
Q Did you ever go by any other name besides John Marcum? A Yes sir.
Q What was that name? A Sudie Kirk.
Q Why did they call you that? A It was after my father, that is what he went by.
Q What was your mother's name? A Polly.
Q Polly what? A Polly Alberty.
Q What relation was she to Ruth Alberty? A Sister.
Q She was a Cherokee freedman? A Yes sir.
Q Who was your father John? A Emily Kirk.
Q He a Cherokee freedman? A Yes sir.
Q Did they live in the Cherokee nation? A Yes sir.
Q When did your mother die John? A In time of the war.
Q When you are an orphan then were you? A Yes sir.
Q How many children have you? A One.
Q What is that child's name? A Joe Marcum.
Q Have you got a wife John? A No sir, none now.
Q Is she died? A Yes sir.
Q When did she die? A The 12th of last August.
Q What was your wife's name before you married her? A Charlotte Vann.
Q Who was her father? A Joe Vann.
Q Who was her mother? A Susan Vann.
Q Were they Cherokee freedmen? A Joe Vann was.
Q Who did he belong to? A Dave Vann.
Q A Cherokee citizen? A Yes sir.
Q Do you know whether your wife's mother was here within the limits of the Treaty or not? A No sir.
Q You don't know when she went out or come back during the war?
A No sir.
Q Who did you say your wife's mother was? A Susan Vann.

BY THE COMMISSION:

- Q You have always gone by the name of John Marcum? haven't you?
A Yes sir, after I got grown so I could enroll for myself.

- Q How did you get the name of Sudie? A My uncle called me that when I was a boy.
- Q How did he happen to call you that? A That was just a nick name, after I got grown he said my name was John and he commenced calling me John.

BY MR. BLEDSOE:

- Q Who did you stay with in your early years? A With my uncle.
- Q What was his name? A Fred Marcum.
- Q That accounts for the change then in the name? A Yes sir.

BY THE COMMISSION:

- Q Is your uncle living? A No sir, he is dead.
- Q When did he die? A Between 13 and 14 years now I think.
- Q Have you got any children? A Yes sir, one.
- Q What is his name? A Joe.
- Q Is he living? A Yes sir.
- Q When did you first happen to remember that you had been known as Sudie Kirk? A I wasn't grown when I remembered that, and all the time while I was a boy my uncle called me that.
- Q You appeared before the Commission several times haven't you?
- A Yes sir.
- Q And this is the first time you ever said your name was Sudie Kirk? A I asked the Commissioner if my name was on the roll as Sudie Marcum, and they never could find it on the roll that way?
- Q Where was your uncle living? A Way up here in Cooweescoowee District.
- Q Where? A About six miles northeast of Wagoner.
- Q What is your nearest trading point? A Wagoner.

OSCAR MARCUM, being first duly sworn, testified as follows:

BY MR. BLEDSOE:

- Q What is your name? A Oscar Marcum.
- Q How old are you? A About 36.
- Q Where do you live? A Northeast of Wagoner about 12 miles.
- Q You are a Cherokee freedman? A Yes sir.
- Q Do you know John Marcum? A Yes sir.
- Q How long have you known him? A Ever since I can remember.
- Q Did he ever go by any other name besides John Marcum? A He did.
- Q What was that name? A Sudie Kirk.
- Q When did he go by that name? A Ever since I can remember.
- Q Do you know why he went by the name of Sudie Kirk? A That is the name they give him.
- Q Who gave him that name? A I don't know exactly who named him.
- Q Who was his father? A Kirk Alberty.
- Q Who was his mother? A I don't know his mother, I don't remember his mother at all.
- Q How come him to have the name, do you know, of John Marcum?
- A Uncle Fred Marcum raised him and got to calling him John.
- Q He has lived in the Cherokee nation all the time? A Yes sir, ever since I can remember.
- Q This John Marcum and Sudie Kirk are one and the same person? A
- A Yes sir.
- Q You know that of your own knowledge? A Yes sir.
- Q You have lived near him all your life? A Yes sir.
- Q Has John got any children? A Yes sir, one.
- Q What is its name? A Joe.
- Q Has he a wife? A Not living.
- Q What was her name? A Charlotte Vann before she married John.

BY THE COMMISSION:

- Q Are you related to John Marcum? A No sir.
- Q How far do you live from him? A I live about three miles, I believe from John.
- Q Have you known him all his life? A Ever since I can remember I have been knowing him.
- Q He is older than you, isn't he? A Yes sir.
- Q You say this John's father was Kirk Alberty? A Yes sir.
- Q How did he ever go by the name of Sudie Kirk? A His uncle always called him that, his uncle enrolled him that way in 1880.
- Q How do you know? A That is what he called him.
- Q His uncle is now dead, isn't he? A Yes sir.
- Q How did it happen that he told you that he put him down as Sudie Kirk on the 1880 Roll? A Well we got to talking about it and he said his uncle enrolled him as Sudie Kirk.
- Q John told you that, did he? A No his uncle.
- Q Did his uncle tell you that he had enrolled this John Marcum as Sudie Kirk on the 1880 Roll? A Yes sir, that is the way he enrolled him.
- Q Did his uncle tell you that? A No, but that was his name then.
- Q When did his uncle tell you that? A I say he didn't tell me but that was his name then.
- Q Which side of the Grand River, you live on? A On the west side.
- Q Which side does John live on? A On the west side.
- Q His uncle, where does he live? A He is dead now.
- Q Where did he live? A On the west side too.

RUTHIE ALBERTY, being first duly sworn, testified as follows:

BY MR. BLEDSOE:

- Q What is your name? A Ruthie Alberty.
- Q How old are you? A I don't know sir, I don't know how old I am, 60 something I think.
- Q Are you a Cherokee freedman on the straight roll? A Yes sir.
- Q Do you know John Marcum? A Yes sir, I knowed him from his birth.
- Q Did he ever go by any other name besides John Marcum? A Yes sir we always called him a nick name Sudie, Sudie Kirk.
- Q How come him to have that name? A I don't know exactly how come him to have that name.
- Q Who was supposed to be his father? A Emory Kirk.
- Q Who was his mother? A Polly Alberty.
- Q What kin was she to you? A My sister.
- Q She was a Cherokee freedman? A Yes sir.
- Q Has John lived up in that neighborhood all his life? A He has~~xxx~~ lived five miles east of Wagoner all his life.
- Q Where was John born, do you know? A In the Cherokee Nation.
- Q You know then of your own knowledge that John Marcum and Sudie Kirk is one and the same person? A Yes sir, his name was John but they all called him Sudie until he got nearly grown.
- Q Who raised him when he was small? A Fred Marcum, my brother.
- Q Who attended to his enrollment? A Fred Marcum.
- Q Did you ever hear anybody say his name was Sudie Kirk? A Yes sir, that is what we always called him.
- Q You lived right there close to John? A Right with them, all in the same family.

BY THE COMMISSION:

- Q John got any brothers and sisters? A Yes sir, he has two brothers.
- Q What are their names? A Their names, one is Silas Alberty, they enrolled the names different, we taken them and enrolled them as our names, his mother died and his father was away.

- Q Give the names of his brothers and sisters? A Silas Alberty and Lincoln Alberty.
- Q Same mother? A Same mother and father.
- Q Same father too? A Yes sir, but their names were enrolled different, because his father was away. We taken the children after his mother died and raised them.
- Q Have you known John Marcum from the time of his birth up to the present time? A Yes sir known him all his life.
- Q How far did you live from him during that time? A Just about two miles apart.
- Q Always? A Always, ever since we come back home.
- Q After the war you have lived within two miles of him all the time? A About two miles apart.

The names of Lincoln Alberty appears on Cherokee freedman Card No. 587 and Silas Kirk on Cherokee Freedman No. 956, full brothers of John Marcum.

This case was here continued until one o'clock P. M.

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This case was called for trial at one o'clock P. M. pursuant to adjournment.

APPEARANCES:

For the Applicant? P. P. Bledsoe.
For the Cherokee Nation, W. W. Hastings.

WILLIAM MARCUM, being first duly sworn, testified as follows:

BY MR. BLEDSOE:

- Q What is your name? A William Marcum.
- Q How old are you? A 40.
- Q Cherokee freedman? A Yes sir.
- Q Where do you live? A On Grand River.
- Q What nation? A Cherokee Nation.
- Q How old are you? A 40.
- Q Do you know John Marcum? A Yessir.
- Q How long have you known him? A Ever since I can recollect, we were raised together.
- Q What was his father's name? A Emory Kirk.
- Q What was his mother's name? A Her name was Katie.
- Q Is his mother dead? A Yes sir, I never seen her that I know of.
- Q Who raised him? A My father raised John.
- Q Who raised him? A Fred Marcum.
- Q Did you ever know John to go by any other name besides John Marcum? A Yes sir.
- Q What was that name? A Sudie.
- Q Sudie ~~Kirk~~ what? A I called him Sudie, all of us boys called him Sudie.
- Q Did your father have him enrolled? A Yes sir.
- Q Do you know how he had him enrolled? A The first time I think as Sudie Kirk and after that he said that he was adopted to his family and he enrolled him as one of the family.
- Q That is the reason his name was changed to Marcum was it?
- A Yes sir.
- Q Do you know when your father first enrolled him? A No sir, I don't.

- Q How old was John in 1880 or do you know? A No sir, I don't know how old he was, John is about 1 1/2 years older than I am.
Q John has always resided right there in the neighborhood?
A Yes sir.

BY MR. HASTINGS:

- Q What is John's father's name? A John's father's name is Emory Kirk.
Q When did he die? A I don't know just when he died, he died here not over two or three years ago.
Q What was his mother's name? A I think her name was Katie.
Q Katie Kirk? A Yes sir.
Q When did she die? A I don't know sir.
Q About how long ago? A I told you I didn't know about how long.
Q Do you ever remember seeing her? A No sir.
Q Then you never knew his mother? A No sir.
Q How old are you? A I am 40 years old.
Q Which is the older, you or John? A John is the older.
Q How much? A Something about 1 1/2 years I think.
Q Are you related to him? A Yes sir.
Q What? A First cousin.
Q How far did you live from him when you were boys? A Right in the same yard ever since I can recollect.
Q With whom was he living? A My father.
Q Who was your father? A Fred Marcum.
Q Where was Emory Kirk living? A He lived up on Grand River there some time, I guess 15 years to my knowing or longer, I don't know just how long, about 12 miles above there.
Q You don't know anything about the enrollment of this man do you?
A No sir, no more than what they said.
Q Of course Fledsoe told you to say he was enrolled by a certain name and then you remembered it? A No sir, he never opened his mouth to me about it.
Q Then was he ever enrolled? A He has been enrolled ever since that was taken.
Q What time was he enrolled? Now you have been talking about how he was enrolled, now when was that? A I couldn't say just when it was, but he was enrolled.
Q Four or five years ago? A I know better than that and you too.
Q Now I am trying to get you to tell that under oath? A 4 or 5 years ago?
Q I am asking you when it was? A You know that it has been longer than four or five years ago.
Q Well how long ago was it? A Something like 20 years ago.
Q Who did the enrolling? A Tom Wright is the man.
Q Who was Tom Wright? A A man that was doing the enrollment.
Q He was a Census taker, was he? A Yes sir.
Q You are certain about that? A That is what he said.
Q And that is the time he was enrolled as Sudie Kirk? A I don't know, they say that was the time.
Q Now when was he enrolled as Sudie Kirk and who did the enrollment? A I said father enrolled him, he enrolled him as Sudie Kirk.
Q Now when was that, what time, or how long a time ago? A It has been a long time ago.
Q Who enrolled him as Sudie Kirk when your father gave him his name? A I don't know who it was.
Q You don't remember that? A No sir, I don't remember that.
Q You were not present at all were you? A No sir.
Q When did you hear him give in his name? A I don't know, my father said that.
Q How do you know your father said that? A I heard him say it.
Q When? A Shortly after he came back.

- Q From that enrollment? A Yes sir.
 Q And you remembered it all the time up to the present? A Yes sir, can't you remember anything anybody tell you.
 Q Who did he give his name to? A I don't know.
 Q You don't know who the Census takers were? A No sir.
 Q You were not present? A No sir.
 Q Emory Kirk was living at the time? A Yes sir.
 Q Is he living yet? A No sir.
 Q When did he die? A I told you, I don't know.
 Q About how long ago? A Two or three years ago.
 Q This John Marcum wasn't an orphan 20 years ago? A No sir.

BY MR. BLEDSOE:

- Q His mother was dead at that time, was she? A Yes sir.
 Q And he was living with your father at that time? A Yes sir.
 Q Do you know who took the Census in 1890?? A I aint sure but I think it was Tom Wright at that time.
 Q Was he a Cherokee citizen? A Yes sir.
 Q Who else did he have with him at that time? A I can't be positive as to that, it was some one by the name of Ralls.
 Q You were not very old at that time yourself, were you? A No sir, but I knew Tom well.

BY THE COMMISSION:

- Q Did John Marcum have any brothers and sisters? A Yes sir.
 Q What were their names? A He has got one brother that lives up there in the upper part of Cooweescoowee District.
 Q What is his name? A Silas Kirk.
 Q Was he any other brothers? A Yes sir, Lincoln Alberty.
 Q Were they of the same father and same mother as John? A Yes sir, now there are three of those boys, all three goes by different names, there is Silas Kirk, Lincoln Alberty, and John Marcum.
 Q You state now that Silas Kirk, Lincoln Alberty and John Marcum have got the same father and same mother? A Yes sir, the same father and the same mother. Of course I couldn't swear to one of my own children that I have at home.
 Q So I understand you to say that this John Marcum was known as Sudie Kirk? A Yes sir.
 Q When he was living with your father? A Yes sir.
 Q How long did he live with your father? A Until he married.
 Q Do you know when he was married? A It has been to the best of my recollection about 18 years.
 Q Has John got a child living? A Yes sir.
 Q What is its name? A Joe.
 Q You know that child is living of your own knowledge, do you? A Yes sir.
 Q Who is the mother of Joe? A Charlotte.
 Q Charlotte what? A Charlotte Vann, I guess was her name.

BY MR. HASTINGS:

- Q Do you know a J. B. Alberty? A No sir.
 Q Do you know a Kate Keys, a Cherokee? A No sir, I don't.
 Q Dick Keys? A No sir, there are some Keys right across the river from me, but I don't know them.

RUTHIE ALBERTY RECALLED:

BY MR. HASTINGS:

- Q Was this John Marcum ever known by the name of Sudie Kirk?
 A Yes sir, that was what we always called him.
 Q When did he change the name of Sudie? A He always went by that name until he got to be a young man and then they called him by his right name, John.

- Q What was his father's name? A Emory Kirk.
Q What was his mother's name? A Polly.
Q When did she die? A If I am not mistaken, she died in '66.

BY MR. BLEDSOE:

- Q What relation was his mother to you? A His mother was my sister.

BY THE COMMISSION:

- Q Do you remember when Fred Marcum got hold of John Marcum? A He must have got hold of him in 1867.
Q Do you remember the time, how big he was at that time? A Just a little small boy. When his mother died at Fort Gibson we had to get the children. His father wasn't here at that time in this country, he runed away from the south and left his mother south where we were carried, and his mother came back here, and she died, and that caused the children to be scattered among the relations.
Q Do you know any of his brothers and sisters? A Yes sir.
Q What are their names? A Silas Kirk or Alberty and Lincoln Alberty, after we got them they went by our names they being with us.
Q Now are you positive that this John Marcum is a full brother and of Silas and Lincoln? A Yes sir.
Q Do you know of your own knowledge that he has always lived in the Cherokee nation since 1867? A Yes sir always lived by me as I told you before.

The Cherokee nation will be allowed until June 29, 1905, to investigate this matter.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 5th day of July, 1905.

Myron White
Notary Public.

93m

Cherokee Freedman D 129
(Cherokee Freedman D 1264)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the applications filed for the enrollment of John Markham, alias Sudie Kirk, as a Cherokee Freedman.

O R D E R .

The records in the two above numbered cases show that on April 20, 1901, John Markham appeared before the Commission to the Five Civilized Tribes at Fort Gibson, Indian Territory, and made application for the enrollment of, among others, himself, as a Cherokee freedman; was duly listed for enrollment, and his name, together with said others, placed upon Cherokee Freedman Doubtful card No. 129; and that on June 30, 1902, Emmet Starr appeared before said Commission at Muskogee, Indian Territory, and made application for the enrollment of one Sudie Kirk as a Cherokee citizen, and that said applicant was listed for enrollment, his name being placed upon Cherokee Freedman Doubtful card No. 1264. The evidence filed in said cases shows the said John Markham and the said Sudie Kirk to be one and the same person.

It is therefore ordered: That Cherokee Freedman Doubtful card No. 1264 be cancelled and that the record of proceedings had in re application of the said Sudie Kirk be transferred and made a part of the record in the case of John Markham, et al., Cherokee Freedman Doubtful, case No. 129.

(Signed) Wm O. Beall
Acting Commissioner

Dated at Muskogee, Indian Territory,

this DEC 7 - 1905

at me

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emory Kirk et al., as Cherokee Freedmen, consolidating the applications of:

Emory Kirk et al.	Cherokee Freedman D 782
John Markham et al.	Cherokee Freedman D 129.

DECISION.

THE RECORD IN THIS CONSOLIDATED CASE SHOWS: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Emory Kirk for himself and wife, Evaline Kirk; and by John Markham for himself and wife, Charlotte Markham, and their minor son, Joe Markham. Application was also made for the enrollment of Alice Vann as a Cherokee freedman, but as she has been differently classified her rights to Cherokee freedman citizenship will not be considered in this decision.

The record further shows that on April 22, 1905, the Commission rendered its decision herein denying said applicants, except Evaline Kirk, the right to enrollment as Cherokee freedmen, and dismissed the application for the enrollment of the said Evaline Kirk, and that said decision was duly forwarded to the Department; and that thereafter, on November 27, 1905, (I.T.D. 4960, 5726, 15754-05), upon request of the Commissioner to the Five Civilized Tribes, the Department returned the record in this case "for the readjudication of the claim of John Markham alias Sudie Kirk."

THE RECORD IN THIS CASE NOW FURTHER SHOWS: That on June 30, 1902, Domet Starr appeared before the Commission to the Five Civilized Tribes at Muskogee, Indian Territory, and made application for the enrollment of Sudie Kirk as a Cherokee citizen; that further proceedings in the matter of this application were had on June 18, 1905, at Muskogee, Indian Territory, and that on December 7, 1905, it was ordered by this office, inter alia, that the proceedings had in re application of the said Sudie Kirk be transferred, and made a part of the record in the case of the said John Markham et al., Cherokee Freedman D 129, supra.

THE EVIDENCE IN THIS CASE SHOWS: That the said applicant, John Markham, alias Sudie Kirk, is identified upon the Cherokee authenticated tribal (orphan) roll of 1880; that since the date of said enrollment up to and including September 1, 1902, he has continuously lived in the Cherokee Nation; and that the minor applicant, Joe Markham, is a son of the applicant John Markham, was born since 1880, has continuously lived in the Cherokee Nation since birth, and is identified by a birth affidavit made a part of the record herein.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That its decision rendered by the Commission to the Five Civilized Tribes in this case on April 22, 1905, be affirmed as to the applicants Emory Kirk, Evaline Kirk and Charlotte Markham, but that for the reasons above indicated, said decision be rescinded, set aside, and held for naught, as to the applicants John Markham and Joe Markham; and that under the provisions of Section Twenty-one of the Act of Congress approved June 25, 1896 (30 Stat., 495), said John Markham and said Joe Markham are entitled to enrollment as Cherokee Freedmen, and their application for enrollment as such is accordingly granted.


COMMISSIONER

Dated at Muskogee, Indian Territory,

this DEC 13 1905

To the Commissioner to the Five Civilized Tribes:

You are requested to enter J. P. Bludsoe
of Choteau Indian Territory, as my sole at-
torney representing me in the matter of my application for the
enrollment of myself and those I represent as citizens of the
Cherokee Nation.

You are advised that the authority heretofore given any
agent or attorney to represent me is hereby revoked.

John Markham
Agent.

at Choteau Indian Territory,
this 5th day of January 1906

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., AUGUST 16, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of JOHN MARKHAM, ET AL., AND EMORY KIRK as Cherokee Freedmen.

APPEARANCES:

For Applicants, I. P. Bledsoe.

For Cherokee Nation, W. W. Hastings.

The records of this office show that on June 19, 1906, the Department remanded this case for further hearing. (See Departmental letter, (I.T.D. 4960-1906, 9862-1906). The records further show that on July 2, 1906, the applicant, John Markham, his agent, I. P. Bledsoe, and the Attorneys for the Cherokee Nation were duly advised of the Department's action; and that on July 31, 1906, they were advised that this case would be called for hearing on Thursday, August 16, 1906, at nine o'clock A. M., at the offices of the Commissioner in Muskogee.

JIM RIDER, being first duly sworn, by John E. Tidwell, a Notary Public, testified as follows:

BY MR. BLEDSOE:

- Q State your name? A Jim Rider.
- Q How old are you? A I don't know just exactly how old I am. I am about 58 years old as near as I can come at it.
- Q Where do you live? A I live in the Cherokee Nation at Choteau.
- Q you are a Cherokee freedman? A Yes sir.
- Q On all the rolls,--filed? A Yes sir.
- Q Do you know Emory Kirk? A Yes sir.
- Q Did you know his wife? A Yes sir.
- Q What was her name? A Pelly.
- Q Do you know anything about when she died? A No sir, I don't know just what year it was, she died here at Fort Gibson.
- Q Was there any epidemic about the time she died? A It was the year they had the cholera.
- Q She was a Cherokee freedman was she? A Yes sir.
- Q Who was her brothers and sisters? A Fred Markham was her brother, Ruth Alberty was her sister, Patic Markham was her sister.
- Q Who was her children, children of Emory Kirk and Pelly? A Jim, Silas, Link, and John.
- Q Did you ever know this John to go by any other name than John Markham? A Yes sir, Sudie.
- Q Sudie what? A Sudie Kirk.
- Q You don't know how come him to go by that name? A By the name of Sudie Kirk?
- Q Yes? A Yes sir, it has always been my understanding after we come back here Emory Kirk didn't go by the name of Emory Alberty. He taken his father's name as Kirk, and that is where this Kirk come from.

- Q John has lived in the Cherokee nation all of his life, has he?
A Yes sir, all of his life.
Q Did you know Charlotte Markham, the wife of John? A Yes sir.
Q What was her name before she married? A Charlotte Vann.
Q Who was her father and mother? A Joe Vann was her father, and her mother was named Susie, I disremember her mother's people's name.
Q Did they belong to Cherokee people before the war? A No sir.
Q Neither one of them? A Joe Vann did.
Q Who did he belong to? A Dave Vann.
Q A Cherokee citizen by blood? A Yes sir.
Q Where did they live? A They lived on the east side of Grand River, right east of Choteau.
Q Did they go out of the country during the war? A Yes sir.
Q When was the first time you saw him after the war in the Cherokee Nation? A Joe?
Q Yes? A I couldn't just come right down and say, it was along about '68 as well as I can recollect.
Q Did this girl come back with him? A Yes sir.
Q How old was she at that time? A I don't know, she was quite small at that time.
Q Has she any brothers and sisters? A No sir, none but Dave.
Q Dave what? A Dave Vann, he was a half brother others.
Q Who was his father? A Joe Vann.
Q Do you know whether he has filed or not? A Yes sir, he has filed.
Q He is her only living brother? A Only living one I know anything about.

Mr. Hastings: comes now the representative of the Cherokee Nation and moves to strike out that with reference to the half brother or sister of Charlotte Markham for the reason that it is not material in this case and does not tend to prove the citizenship of Charlotte Markham.

On Behalf of the Commissioner: The objection will be noted.

- Q Did Charlotte Markham live and die and continually reside in the Cherokee nation after they come back here? A Yes sir.
Q Did Joe Vann live in the Cherokee nation after he come back?
A Yes sir.

BY MR. HASTINGS:

- Q Where did Joe Vann return to? A I don't know where he returned to, when I first seen of him was on Brushy right where I live.
Q Where did you understand he came from? A From Kansas.
Q Down there? A Yes sir.
Q And that was in 1868? A Yes sir.
Q How you had lived in that vicinity before that? A Yes sir.
Q How long had you been living there? A A year or so.
Q Of course you knew when a person come into the community that you had known before the war and you made inquiry about him, and you understood from inquiry you made at that time that he had come from Kansas? A Yes sir, my understanding was he had come from Kansas but how long he had come from there, I don't know.
Q But he hadn't been in that community? A No sir, such as that I didn't pay any attention to that.
Q Was his wife a state raised woman? A Yes sir. I don't know, he might have been in the country a year before I seen him.
Q When Joe Vann was never recognized as coming within the time in that community? A No sir.
Q Always recognized as too late? A Yes sir.
Q By all the citizens, both colored and Cherokee? A Yes sir.

- Q How old was Charlotte when you saw her there? A I don't know how old she was, she was quite small.
- Q About what age, guessing at it? A Probably a year old, such a matter.
- Q If she was born in 1864 she was bound to have been older than that? A I don't know, she was small, I didn't pay much attention to it.
- Q She might have been some older than that? A She might have, yes sir.
- Q When did John Markham's father die, or is he alive yet? A No sir, he is dead, been dead I guess 4 or 5 years I reckon.
- Q What is his father's name? A Emory.
- Q He has been dead 4 or 5 years? A 4 or 5 years I reckon, I couldn't say just how long he has been dead.
- Q He wasn't dead in 1880? A I don't know.
- Q What year is this? A I don't know that neither, I aint got no education.
- Q Do you know who took the Census in 1880? A No sir, I don't.
- Q You don't know where John Markham was living in 1880? A If there is any such a thing as '80 he was living there on Flat Rock where he has lived all his life.
- Q But you know his father was living up until 4 or 5 years ago?
- A Yes sir.
- Q Then you know that previous to that time that John Markham the applicant wasn't an orphan? A No sir, he wasn't an orphan, he wasn't no orphan until his father died.
- Q Now what name has he been going by all the time? A He goes by the name of John Markham and Sudie Kirk, we just call him anything.
- Q Now if you went up in that neighborhood and went to asking for this man what would he answer by? A He would answer by either name.
- Q Do you mean to say now that he is known generally by both of those names, or which would you know him by the most? A I would know him mostly by John Markham.
- Q He is generally known by that name throughout the community and has been all his life? A He is known by the name of Sudie Kirk too.
- Q Which is he known by more? A John Markham.
- Q And has been known by that from boyhood up? A Yes sir.
- Q Was known by that 25 years ago? A Yes sir, ever since he was a small kid, ever since his uncle took him.
- Q Do you know whether John Markham was born before the war or not? A Yes sir.
- Q Was he? A No sir.
- Q When was he born? A He was born just before the war closed.
- Q Where was he born? A Born in the Choctaw nation.
- Q When was the first time you ever saw him after the war? A Why I saw him in the spring of '66.
- Q Where? A Here at Webbers Falls.
- Q Who was with him? A His mother.
- Q What was her name? A Polly.
- Q His mother was a non-citizen? A No sir.
- Q Who did she belong to before the war? A Will Alberty.
- Q Where did he live? A Out here east of wagoner where Tom Gaylor lives.
- Q When did you next see her? A The next time I saw her was after she come here to Fort Gibson.
- Q When was that? A Just before she died. It was along in the summer of '66 I think.
- Q Do you know what year 1866 is, do you know one year from another?
- A No sir, only just as I am told

- Q You don't know what year this is? A No sir, I don't know, I haven't been told what year this is.
- Q You don't know how long ago 1866 was? A No sir, all that I knew about it I was told by my people that owned me that it was the year '66, they brought me back here under the Treaty.
- Q You don't know how many years ago 1866 was? A No sir, I don't.
- Q You don't know whether it was 20 years ago or 40 years ago? A It is over 20 years, something near 40 years ago.
- Q But you don't know? A No sir, not just exactly.
- Q You only know about these things as you have been told about them? A Yes sir.
- Q During what month did Emory Kirk die? A I don't know that.
- Q Don't have any idea about it? A No sir.
- Q Do you know whether it was in the spring, fall or winter? A It was in the winter, if I mistake not, it was kinder cold weather, along about Christmas time.

BY MR. FIELDSOR:

- Q Where is Jeff Jerry liberty? A He is dead.
- Q How I would like to ask you if there is any reason that you know '66, didn't you make one trade in '66 that impresses it upon your mind? A Yes sir.
- Q Tell the commission why it is, tell the trade? A Why of course---
- Q Where did you live during 1866? A I first lived in '66, I made a crop on Greenleaf 12 miles southeast of Port Gibson, for a man named Dunlap. After I laid by my crop that fall, in July, I went up on the River where I am living now there on the old Aunt Nancy Markham place,--there was a family of colored people there on the old Drake place named Zeb Eaton,--he made a crop over there on the Vann place and I made a crop on Greenleaf and Seb Eaton was going to move over there to Greenleaf and I made a trade with Zeb Eaton, I traded him 40 bushels of corn down on Greenleaf for 40 bushels up where I lived,--that was the fall of '66. That is one reason I recollect it was '66 and what makes me remember it was '66 was by my people that owned me and they claimed it was '66.

BY MR. HASTINGS:

- Q They told you when they brought you back here you had rights under a Treaty? A Yes sir.
- Q And that is the reason you come back? A Yes sir.
- Q And it was after this time that you saw John Markham's mother? A I come back with them.
- Q Was she any relation to you? A No sir, she was no relation to me but we all belonged to one family of people.
- Q They said they brought you back under the Treaty? A Yes sir.
- Q And it was the next spring after the Treaty was made that you come back? A No sir, I don't know when the Treaty was made.
- Q The Treaty was made and you come back in the spring of the year? A Yes sir.
- Q They told you the Treaty was made and you come back the next spring? A Yes sir.

BY MR. FIELDSOR:

- Q Do you understand what you are swearing to? A Which? I come back here in the spring of '66.
- Q Was that before or after the Treaty was made? A It was before the Treaty was made.

BY MR. HASTINGS:

- Q Thought you said your people told you they brought you back under the Treaty? A Well they told me I was under the Treaty, I was in time, I was a citizen.

BY MR. HLEDSON:

- Q Now if Bill Markham stated that John's mother was Katie, he is mistaken, is he? A Yes sir, he is mistaken.
- Q Now if Oscar Markham stated the father's name of John was Kirk Alberty, is it true or not? A I don't know, we called him Emory Alberty.
- Q Do you know why he was sometimes called Emory Alberty? A Well of course he was called Emory Alberty but after he was freed he wanted back his father's name and he called himself Emory Kirk.
- Q Alberty then was his master's name? A Yes sir.

W I T N E S S E X C U S E D .

JOHN MARKHAM, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A John Markham.
- Q How old are you? A I guess I am about 43 years old.
- Q What is your postoffice? A Wagoner.
- Q You are the applicant in this case, are you? A Yes sir.
- Q What is the name of your father? A Emory Kirk.
- Q Is he dead? A Yes sir.
- Q When did he die? A He has been dead about three years, I reckon.
- Q Did you know Jerry Alberty? A Yes sir.
- Q Is he living? A No sir.
- Q What was his postoffice during his lifetime? A Alberty's post-office?
- Q Yes? A Wagoner.
- Q Do you know Lincoln Alberty? A Yes sir.
- Q Is he here today? A Yes sir.
- Q What was the name of your mother? A Polly.
- Q Was she ever known by any other name? A No sir, not as I know of.
- Q Were your father and mother married when the war closed, the Civil war? A Yes sir, I think so, I don't remember anything about my mother, she died when I was small.
- Q Do you know in what year you were born? A No sir, I don't.
- Q Your mother died you say when you were small? A Yes sir, mother died in Port Gibson.
- Q Did you return to the Cherokee nation after the war with your father? A I returned here with my mother, mother brought me up to Port Gibson, what the old people say.
- Q Did your father come back at the same time? A I don't know sir.
- Q Did you ever live with your father? A No sir, my Uncle raised me.
- Q What is his name? A Fred Markham.
- Q How far did you live from your father up until the time of his death? A I lived about 10 miles from my father.
- Q All the time from the war? A No sir, not all the time.
- Q Well now for several years, up until you were 15 or 18 years old how far did you live from your father? A About 10 miles.
- Q But you lived with your Uncle? A Yes sir, my Uncle raised me.
- Q Is Fred Markham a brother of your father or brother of your mother? A Brother of my mother.
- Q Was it well known that Emory Kirk was your father? A Well some said he was.
- Q Was it well known that he was reputed to be your father, that he was supposed to be your father? A Yes sir.

- Q Did you ever go to school? A Yes sir, I went to school a little.
Q Whereabouts? A On Flat Rock.
Q Is that a Cherokee school? A Yes sir.
Q Supported by the Cherokee nation? A Yes sir.
Q Do you know your correct age? A No sir, I don't, I have just got the old people's word for my age.
Q How when you were a boy by what name were you known? A My Uncle when I was a boy called me Sudie.
Q How come that he called you by that name? A That was just a nick name he said.
Q Do you know how he came to nick name you that? A No sir, I don't.
Q By what name are you known now? A John and after I become to be grown and went to enroll for myself he said my name was John Markham, went by his name.
Q Did anybody besides your Uncle ever call you Sudie? A Yes sir.
Q The boys you were with, what did they call you? A Called me Sudie.
Q I will ask you when was the first time in connection with your Cherokee enrollment case you ever mentioned the fact that you were known as Sudie Kirk or Sudie Markham when you were a boy?
A I mentioned it when I went to Fort Gibson.
Q When was that? A That is when they were enrolling.
Q Was that when you applied for your own enrollment? A Yes sir, I applied for those two names John and Sudie.

BY MR. BLEDSOE:

- Q Who taught school when you went to school John? A John Beck.
Q He a Cherokee citizen by blood? A Yes sir.
Q Do you recollect of Judge Keys teaching while you were there?
A Yes sir, he taught awhile.
Q Did you go to school while Judge Keys was teaching? A Yes sir.
Q At the same school house? A Yes sir.
Q Where was this? A On Flat Rock.

WITNESSES EXCUSED.

RUTH ALBERTY, being first duly sworn, by John E. Tidwell, a Notary Public, testified as follows:

BY MR. BLEDSOE:

- Q What is your name? A Ruth Alberty.
Q How old are you? A I don't know my age, I guess I must be about 56 or 57.
Q Where do you live? A I live east of Wagoner about 5 miles.
Q You are a Cherokee citizen, are you? A I am.
Q What is your husband's name? A Jerry Alberty.
Q He alive or dead? A Dead.
Q Do you know John Markham? A I do.
Q How long have you known John Markham? A Been knowing him all his life.
Q Who was John's mother? A Polly Alberty.
Q What relation was she to you? A My sister.
Q Who was John's father? A Emory Kirk.
Q Is he alive or dead? A Dead.
Q Do you know who your sister belonged to before the war? A She belonged to Will Alberty.
Q What time did she come back to the Cherokee nation? A She come back in '66, said to be.

- Q When did she die? A In '67 so they say, I don't know, it is according to what they say, she died at Fort Gibson with the cholera, and they say that was in '67.
- Q Where did John live after she died? A Down on Flat Rock.
- Q Who did he live with? A Fred Markham.
- Q What relation was he to him? A His Uncle.
- Q Your brother? A Yes sir.
- Q John continue to live in the Cherokee nation since he came back?
- A Yes sir.
- Q When his mother died at Fort Gibson, how old was he? A I don't know just a small boy.
- Q What name does John go by now? A Goes by John Markham.
- Q Did you ever know him to go by any other name? A No sir.
- Q Did he ever have any nick name while he was little? A Yes sir.
- Q What was it? A Called him Sudie Kirk.
- Q Do you know how he come by that name? A No sir, I don't really know.
- Q Do you know John's wife, Charlotte Markham? A Yes sir, I know her after she was a good big girl.
- Q Did you know Joe Duff? A Yes sir.
- Q He was her father, was he? A Yes sir.
- Q Joe Vann? A Yes sir.
- Q When was the first time you saw Joe Vann after the war? A I don't know sir whether I could tell you that now.
- Q About how long after you came back? A I don't know, I couldn't tell you that.
- Q It was several years was it after you came back? A I suppose it was.
- Q Did you know Joe Vann before the war? A This Joe Duff you are speaking about?
- Q Yes? A Yes sir.
- Q Who was he a slave of? A Dave Vann.
- Q He was a Cherokee citizen? A Yes sir.
- Q Joe lived and died here after he came back? A Yes sir.
- Q How old was Charlotte when you saw Joe? A A little bit of a thing, nursing.
- Q If Oscar Markham stated that Emory Kirk's name was Kirk Alberty he was mistaken, was he? A Yes sir, he was mistaken.
- Q Polly, John's mother, was never known by the name of Katie, was she? A No sir, his mother's wasn't named Katie, her name was Polly.
- Q Who was Kate? A My sister.

BY MR. HASTINGS:

- Q You don't know when Joe Duff or Vann returned? A No sir, I don't.
- Q But you know it was some two or three years after the war? A Yes sir, somewhere along there.
- Q How far did they locate from you when they come? A It wasn't very far, I reckon about 8 or 9 miles, we didn't go much then.
- Q But you heard of their coming to that community? A Yes sir.
- Q And you heard they come from Kansas? A Yes sir, I guess so.
- Q That was your understanding at the time? A Yes sir.
- Q Now are you well acquainted with years? A Years?
- Q Yes, do you know them all,--dates,--for instance, do you know what this year is? A No sir, I don't know no years.
- Q You don't know what year you were married? A No sir.
- Q You don't know one date from another? A No sir, you see I was considered stock, and I don't know one date from another.
- Q And you don't know 1866 from 1867 or 1876? A No sir, I don't know that.

- Q Now wasn't this John Markham always known by the name of Markham?
A Well we called him John Markham and then he took his name after his daddy.
Q Well but after he got up to be a boy of 14 or 16 or 17 years of age, and got big enough so he went to school, and made a living for himself, what did he go by? A He went by the name of John Markham, took his name after his Uncle.
Q While he was living with his Uncle what name did he go by? A John Markham.
Q He was so known throughout the community by that name? A Yes sir.

BY MR. BLEDSON:

- Q Did you ever know him by any other name besides John Markham?
A No sir.
Q Did he ever have any nick name? A He had a nick name Sudie. That is all.
Q Did he ever go to school to John Beck as you know of? A Yes sir.
Q Where did he teach school? A Right there on Flat Rock.

W I T N E S S E X C U S E D .

LINK ALBERTY, being first duly sworn, testified as follows:
Witness sworn by John A. Tidwell, a Notary Public.

BY MR. BLEDSON:

- Q What is your name? A Link Alberty.
Q How old are you? A Why I am going on, I can tell about how old I is, about 40 to 45.
Q Where do you live? A On Flat Rock.
Q What is your postoffice? A Wagoner.
Q You are a Cherokee citizen on the roll and filed? A Yes sir.
Q Do you know Emory Kirk? A Yes sir.
Q What relation was he to you? A My father.
Q How many brothers and sisters did you have and what are their names? A I had three that he claimed all the time, but they sorter disputed my youngest brother John being his. For me to know it to be the fact, I don't know nothing about it.
Q Have you brothers? A Silas, Jim, three of us.
Q They call him Jim Flatrock? A Yes sir, that is the oldest one.
Q And John, you all had the same mother? A Yes sir.
Q What was your mother's name? A Polly.
Q Who was her sisters, if you know? A Aunt Katie and Aunt Ruth Alberty.
Q Who was her brother? A Uncle Fred Markham.
Q Where did your mother die, if you know? A Died at Fort Gibson.
Q Do you recollect at what time? A No sir, - was too young.
Q Is your father dead? A Yes sir.
Q Do you know when he died? A Well - did know the date of it---
Q About how long ago? A It has been a little over three years now.
Q Where has John Alberty lived since he come back to the Territory?
A Who?
Q John Markham I mean? A Right there on Flat Rock.
Q Did you ever know him to go by any other name except John Markham?
A Yes sir, my Uncle used to call him Sooda. When we were little boys he called him Sooda. My father written back here he wasn't his so Uncle Fred said I will just give him the name Sooda.
Q Who raised him? A Uncle Fred Markham raised us both.
Q Did John ever go to Cherokee schools? A Yes sir.

- Q Who taught while he went to school? A Mr. John Beck.
 Q Did Judge Keys ever teach there any? A I don't know, I left.
 I never went to school a day in my life.
 Q Where was this school taught? A There on Flat Rock. Judge
 Keys can tell you for himself, I wasn't there all the time.
 Q Did you know John's wife, Charlotte? A Yes sir.
 Q How long have you known her? A Ever since she was a little
 girl about that high I guess (indicating). She was 7 or 8
 years old.
 Q She lived and died there in the Cherokee Nation? A Yes sir.
 Q You don't know anything about when she died or her father returned
 to the country? A No sir.

BY MR. HASTINGS:

- Q Then your father, Emory Kirk, always denied that John was his
 child? A That is what the old folks said.
 Q You know he never recognized him? A No sir.
 Q Never did recognize him as his child? A No sir.
 Q Well he always went by the name of Markham? A No sir, they
 called him Sooda.
 Q I know, but his last name, he went by the name of Markham? A My
 Uncle gave him that name Sooda.
 Q I am asking what surname he went by? A John Markham.
 Q Did he go by the name of Sooda Markham? A Yes sir.
 Q And he always went by that name, as Sooda or John Markham? A After
 he came to be a man.
 Q When he was growing up he went by the name of Markham? A Yes sir.
 Q While he was a boy? A Yes sir.
 Q Your father always disclaimed this being his child? A Yes sir.
 Q That is your understanding? A Yes sir.
 Q And that was your understanding from boyhood up? A Yes sir.
 Q Your father never did own him? A No sir.
 Q Never did until the day he died? A Never asked him about that.
 Q You never heard he owned him? A No sir.

BY MR. WILSON:

- Q You never heard him go by the name of Sooda Kirk? A I say my
 Uncle called him that until my father said that he didn't think
 John was his and he said just let him go by John Markham, my name.
 Q How old was he then? A We were good big boys.
 Q Young man? A No sir, he was somewhere along there about 10
 years old.
 Q What other name did he have prior to that time, Sooda Markham or
 Sooda Kirk? A Sooda Kirk.

ON BEHALF OF THE COMMISSIONER:

- Q Your father was named what? A Emory Kirk.
 Q Ever call him Em for short? A Why I don't know, I just always
 heard they called him Emory.
 Q Did you come back to the Cherokee Nation with your father
 or with your mother or both? A I come back with my mother and
 Uncle.
 Q Where was your father at that time? A I don't know sir.
 Q Well had he come on to the Cherokee Nation before or after, or do
 you know? A I don't know sir, I don't know where he was, I
 couldn't say, I was too young, never did ask any of them about it.
 Q When was the first time after the war you remember of seeing him?
 A After the war the first time that I saw him I guess he was up here
 on the River, across the Grand River there.
 Q In the Cherokee Nation? A Yes sir.
 Q When was that? A I couldn't say.
 Q How many years after the war? A I don't know.
 Q Were you a good big boy? A I was a good big boy.

- Q Do you remember when the war closed? A No sir.
- Q You were up in the neighborhood of 12 or 14 years old when you saw your father first after the war? A Yes sir, I guess I was about that age.
- Q Was that the first time you ever heard of him in the Cherokee Nation after the war? A No sir, I had heard of him before that.
- Q Where did you hear he was? A We all went south save him.
- Q I mean after the war and before you saw him up there across Grand River, had you heard of him being in the Cherokee nation during that time? A No sir, I hadn't heard of him.
- Q When you saw him up there across Grand River, when you were about 12 or 14 years old, that was the first time you had seen him and the first time you had heard of him after the war? A No sir, I had heard of him lets before that.
- Q Where did you hear he was? A Up in Kansas.
- Q Were you living with your mother when you first saw your father after the war? A No sir, I was living with my Uncle.
- Q Did he come to your Uncle's house? A Yes sir.
- Q Well was he supposed to have come from the State of Kansas then? A I don't know where he had come from.
- Q That was the first time you had seen him in the Cherokee nation? A Yes sir.
- Q And the first time you had heard of him being in the Cherokee Nation after the war? A Yes sir.
- Q You understood that he was in Kansas? A Yes sir, during that time that I heard of him.
- Q Have you always regarded John Markham as your brother? A Yes sir.
- Q And your father always disputed him? A Yes sir.
- Q Do you know that he was your mother's child? A Yes sir, my Uncle come and got us both at the death of my mother and raised us both in the same yard.
- Q How how much older are you than John? A Why he said I was 3 years older than John, that is what my Uncle said.
- Q Can you remember when John was a small baby? A No sir.
- Q Well when you can first remember was John living with you and your mother? A Yes sir.

WITNESS EXCUSED.

ROSE ALBERTY, being first duly sworn by John E. Tidwell, a Notary Public, testified as follows:

BY MR. WILSON:

- Q What is your name? A Rose Alberty.
- Q How old are you? A 34.
- Q Where do you live? A I live in Coowaseogowee District.
- Q What is your postoffice? A Choteau.
- Q How long have you lived there in that neighborhood? A About 40 years.
- Q Are you a Cherokee citizen? A Yes sir.
- Q Done filed? A Yes sir.
- Q Do you know John Markham, the applicant in this case? A Yes sir, I know him.
- Q How long have you known him? A Ever since he was a child, about so high (indicating) wearing dresses.
- Q Do you know who his mother was? A Polly Alberty.
- Q Was she a slave of a Cherokee citizen? A Yes sir.
- Q Who did she belong to? A Will Alberty.
- Q Do you know what time she came back to the Cherokee Nation? A She must have come back in about '65, I guess, or '66.

- Q When was the first time you saw her after the war in the Cherokee Nation? A Here at Fort Gibson in '66, about that time.
- Q Do you know whether she is alive or dead? A She is dead.
- Q When did she die? A She has been dead a long time, she died directly after the war.
- Q Where did she die at? A Fort Gibson.
- Q Do you know whether she died during any epidemic or not? A No sir, I don't.
- Q What became of this John after she died? A Fred Markham took him and raised him, her brother, his Uncle.
- Q Who was her sister? A Kate and Ruth Alberty.
- Q Where did Fred live? A Over here on Flat Rock in Cooweescoowee District.
- Q Did you ever know John to go by any other name except John Markham?
- A By the name of Suddie Kirk.
- Q Do you know what caused him to have that name? A Why Tom Wright give him that name, he was taking census at that time.
- Q What time was that and what year? A It must have been about the year of '80.
- Q Tom Wright was a census taker for the Cherokee nation? A Yessir.
- Q Incident How large a boy was John then? A He must have been something a bit so high I guess, (indicating).
- Q John has always lived in the Cherokee nation ever since you knew him? A Yes sir, ever since I knowed him.
- Q Did you know John's father? A Yes sir.
- Q Emory Kirk? A Yes sir.
- Q How long did you know him? A About 30 years I guess.
- Q You didn't know him before the war? A No sir.
- Q When was the first time you saw him after the war? A I don't know just exactly when I saw him.
- Q How many years after the war? A I didn't pay any attention to it.
- Q He didn't come back when John and Polly come? A No sir, he come from the north.
- Q Come back several years afterwards? A Yes sir.
- Q Did he own any property in the Cherokee nation at the time of his death? A Yes sir, he owned some there.
- Q Did he own a house and farm over across Grand River? A Yes sir.
- Q Do you know Charlotte Markham, the wife of John? A Yes sir, I know her.
- Q How long have you known her? A Ever since she was a baby.
- Q Who was she a child of? A Her mother's was named Susie Shields, and her father was named Joe Duff.
- Q Or Joe Vann? A Yes sir, I call him Duff.
- Q Do you know whether her father was a slave of a Cherokee citizen?
- A Yes sir.
- Q Who did he belong to? A Old Dave Vann.
- Q Do you know when Joe Vann come back after the war? A No sir, I don't, I know when I saw him.
- Q What year did you see him? A In '68.
- Q Where did you see him? A Up here on Brushy at Henry Riley's and on Grand River.
- Q Did John Markham's wife remain in the Cherokee nation after you saw her until her death? A No sir, her father come here awhile and taken her back to Kansas and when come back.
- Q How long did they stay in Kansas? A I don't know.
- Q Only two or three years? A Yes sir.
- Q Do you know where Emory Kirk is? A He is dead.
- Q Where is Jerry Alberty? A He is dead.

BY MR. HASTINGS:

- Q How long has Emory Kirk been dead? A I don't know, he must have been dead two years last Christmas, I guess about that time.

- Q What year would that have been? A I don't know.
- Q Can you read and write? A No sir.
- Q Are you married? A No sir.
- Q Ever been married? A Yes sir.
- Q What year did you marry? A I don't know.
- Q Got any children? A Yes sir.
- Q How many children did you have? A Got three.
- Q What year was the first one born? A I don't know.
- Q The second one? A I don't know.
- Q The third one? A I don't know.
- Q Who told you to tell these years on the stand? A I will tell you who just told me, they told it after the war-----
- Q Who told you in the preparation of this case? A I know it. I know what time I got back here to my master.
- Q Didn't tell you that? A No sir.
- Q You have mentioned other dates besides that? A That is as far as I know.
- Q You don't know one year from another, do you? A Yes sir.
- Q What year is this? A I don't know.
- Q What year was last year? A I don't know.
- Q Why is it that you are sitting here on the stand now stating about something that occurred in the year 1890 when you don't know this year and you don't know the year you were married and not the year of a single one of your children were born? A I did not pay any attention to it.
- Q Who told you about the year 1890? AA Just talking about it. I know when they were taking the Census.
- Q Did they ever take the Census besides 1890? A Yes sir, off and on all the time.
- Q What year? A I don't know.
- Q You don't know a single one? A No sir, I have told the truth so far as I know.
- Q But you don't know nothing about any year when the Census was taken? A I just really didn't pay any attention to it. If I had known I had to come to this I would have known everything.
- Q Did Bledsoe tell you the year Tom Wright took the Census? A No sir.
- Q What did you happen to tell the year he took the Census? A I told you hearing people talk about it, I know when Tom Wright took the Census.
- Q Who took the Census any other year? A One time a man named Chambers and Dr. Miller.
- Q What year was that? A I don't know, and one time a man named Cunningham.
- Q What year was that? A I don't know.
- Q Did you go north or south during the war? A South.
- Q Who did you belong to? A Johnson Foreman.
- Q Who did you come back with? A Johnson Foreman.
- Q Where to? A Webbers Falls.
- Q How old were you when the war commenced? A I don't know, just a girl, a good big child.
- Q Nurse girl? A No sir, wasn't old enough to nurse.
- Q Well how old were you then, 8 or 10 years old when you come back? A Yes sir, I guess when I come back I was about that age. I wasn't grown.
- Q Did you ever see John Markham's mother at Fort Gibson after the war? A Yes sir.
- Q How old was John at that time? A I told you I didn't know John's age, just a little fellow wearing dresses.
- Q How many years after the war was it before you saw her? A I don't know, I didn't pay any attention to it.

- Q Now don't you know that Emory Kirk always denied that this John Markham was his son? A I have heard it but I never heard him deny it.
- Q But it was generally known through the country that he always disclaimed him? A I never did hear him.
- Q Never heard it? A Yes sir, I have heard it.
- Q You never did hear he claimed this child? A I have heard he didn't, but he didn't tell me.
- Q Haven't you always lived in the vicinity of Choteau out there? A Yes sir.
- Q And in the same vicinity these people lived in? A Yes sir.
- Q And have since the war? A Yes sir.
- Q And you knew from your knowledge of neighborhood talk that Emory Kirk always disclaimed John Markham as his child? A I heard he didn't claim him.
- Q Now don't you know this John Markham always went by the name of Markham? A I have heard of him going by the name of Markham and heard of him going as Kirk.
- Q You just now stated you heard his father didn't claim him? A I never did hear him say he didn't claim him.
- Q You never heard him claim him? A Never heard him say a word about him, whether it was his or wasn't, I have told you that.
- Q When did you ever hear him called Kirk? A Who?
- Q This John Markham? A I have heard him called that. Heard him called Sudie Kirk.
- Q When? A I don't know, time and again, so many times I couldn't tell you all them.
- Q Have you ever heard him called that since he has been grown? A I heard him called John Markham after he professed religion and joined the Church, but me, I call him Sood up to this day every time I see him.
- Q Did anybody call him Kirk up there when his father always claimed he wasn't his child? A I couldn't tell you that.
- Q His Uncle raised him? A Yes sir, his Uncle got him when his mother died, his daddy wasn't here. Tom Wright put him on the roll Sudie Kirk.
- Q How do you know? A Because he was taking Census.
- Q How do you know Tom Wright took Census that year? A Well I knowed him.
- Q How far did you live from him? A Right close to where I lived.
- Q How do you know he took the Census in 1880? A I don't know how many years ago.
- Q Was it 5 years ago? A It has been longer than that.
- Q About how long ago? A I don't know.
- Q Don't have no idea? A No sir.

BY MR. BLEDSOE:

- Q Did John ever go to school on Flat Rock? A Yes sir.
- Q Who did he go to school to? A John Peck.
- Q Do you know what name he went by when he went to school there? A I don't know what name he went by there.
- Q That was a Cherokee school? A Yes sir.
- Q What is when he lived with his Uncle Fred Markham? A Yes sir, been living there ever since, I knowed him until he got married.
- Q You say you married one of Emory Kirk's ---? A Sons.
- Q What was his name? A One named Jim Alberty, some call him Jim Flatrock.
- Q And you say Emory Kirk lived in the house with you? A No sir, I said I lived in the house with him.

- Q You are positive that the mother of John Markham was Polly? A Yes sir.
- Q You are positive that the woman ratio---? A Was his Aunt.
- Q A sister of Polly? A Yes sir.
- Q If Oscar Markham stated that Emory Kirk was Kirk Alberty in his testimony can you explain why he did that? A Well because he belonged to Will Alberty and this going by the name of Kirk, his father was a Kirk. His father was a half white man and he was a Kirk, lived in the State of Texas, I have heard him say that.
- Q And the reason he was known as Kirk Alberty, he belonged to the Alberties? A Yes sir.
- Q But his real name was Emory Kirk? A Emory Kirk.

WITNESSES EXCUSED.

Attorneys for applicants and the Cherokee Nation announce that they have no further evidence to introduce in this case, this case will be closed and a decision rendered on the evidence heretofore introduced.

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Geo. H. Lessley, being first duly sworn, stated that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 28th day of August, 1906.

Chas E. Webster

Notary Public.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Emory Kirk, et al., as Cherokee Freedmen, consolidating the applications of:

Emory Kirk, et al.....Cherokee Freedmen D 782
John Markham, et al.....Cherokee Freedmen D 129

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Emory Kirk for himself and wife, Evaline Kirk, and by John Markham for himself and wife, Charlotte Markham, and their minor son, Joe Markham. Application was also made for the enrollment of Alice Vann as a Cherokee freedman, but the application for her enrollment is differently classified and her right to enrollment will not be considered in this decision. The records further show that on April 22, 1905, the Commission to the Five Civilized Tribes rendered its decision herein, denying the applications for the enrollment of the said Emory Kirk, John Markham, Charlotte Markham and Joe Markham as Cherokee freedmen and dismissing the application for the enrollment of the said Evaline Kirk, and that said decision was duly forwarded the Department for review and decision; that thereafter on November 27, 1905 (I.T.D.4960,5726,15754-05), at the request of the Commissioner to the Five Civilized Tribes, the Department returned said case to this office for the readjudication of the claim of John Markham, alias Sudie Kirk; that on December 28, 1905, the Commissioner to the Five Civilized Tribes rendered his decision herein, affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, insofar as it affected the applicants, Emory Kirk, Evaline Kirk and Charlotte Markham, and rescinded, set aside and held for naught said decision as to the applicants, John Markham and Joe Markham, and granted their application for enrollment as Cherokee freedmen. Thereafter on June 19, 1906 (I.T.D.4960-05,9862-06), the Department returned the record in said case to this office with instructions to secure the testimony of Emory Kirk, Jerry Alberty and

Lincoln Alberty with a view to determine whether Emory Kirk ever had a wife named Pelly or Katie, or a son named Sudie, and directed, if possible, that John Markham be identified as the son of Emory Kirk. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, August 16, 1906.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, John Markham, is the son of one Pelly Kirk, deceased, formerly the wife of Emory Kirk; that the said Pelly Kirk was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that she was taken from the Cherokee Nation during the progress of said rebellion and returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation. The evidence further shows that the said John Markham was born just before the close of the war of the rebellion; that he removed to the Cherokee Nation with his said mother and has since continuously resided therein. From the testimony introduced it is impossible to definitely determine whether or not the said John Markham is identical with Sudie Kirk who is identified on the orphan roll of 1880 at page seventy-five, No. thirty-three, Cooweescoowee District, or the son of Emory Kirk, but it is considered by this office that he acquired Cherokee freedman citizenship under the provisions of Article nine of the Treaty of 1866, as a descendant of his said mother by virtue of his return with her to the Cherokee Nation prior to February 11, 1867. The evidence further shows that the applicant, Joe Markham is the son of the said John Markham, was born in the Cherokee Nation and has continuously resided therein since birth. Said Joe Markham is duly identified as the son of John Markham by birth affidavit which is filed herewith and made a part of the record herein.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That the decision of the Commissioner to the Five Civilized Tribes dated December 28, 1905, affirming the decision of the Commission to the Five Civilized Tribes rendered on April 22, 1905, denying the applications for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and dismissing the application for the enrollment of Evaline Kirk, be affirmed, and that under the provisions of section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), John Markham and Joe Markham are entitled to enrollment as Cherokee freedmen and their application for enrollment as such is accordingly granted.

Thomas H. Smith

Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 10 1907

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. John Markham,
Wagoner, I.T.
Cherokee F-D-129
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Shawnee Branch
Jan 2-189.

Muskogee, Indian Territory, July 9, 1902.

John Markham,

Wagoner, Indian Territory.

Sir:-

In the matter of your application for the enrollment of your minor child, Joe Markham, you are required to file with the Commission a certificate of your marriage to your wife, Charlotte, or a duly certified copy thereof.

In the event that you are unable to file such certificate or certified copy, you are required to bring before the Commission two persons who witnessed said marriage.

You will be allowed until August 1, 1902 within which to comply with this requirement.

Very respectfully,

Acting Chairman.

Register.

Cherokee Freed-
men District,

Mustang, Indian Territory, July 10, 1902.

Louis F. Brown,

Agent for John Markham et al.,

Vinita, Indian Territory.

Sirs:-

In the matter of the application for the enrollment of Joe Markham, the minor child of John Markham, as a Cherokee Freedman, it is required that a certificate of the marriage of John Markham to his wife, Charlotte, or a duly certified copy thereof, be filed with the Commission.

In the event that such certificate or certified copy cannot be filed, it is necessary to bring before the Commission two persons who witnessed said marriage.

The applicant, John Markham, will be allowed until August 1, 1902 within which to comply with this requirement.

Very respectfully,

Acting Chairman.

Register.

Cherokee Freedman
D-129.

Muskogee, Indian Territory, October 17, 1903.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of yourself and family as Cherokee freedmen, you are advised that before a decision can be prepared in your case, further testimony is required tending to show whether or not your wife's parents, Joe Vann and Susan Vann, were slaves of Cherokee citizens at the commencement of the rebellion.

You are therefore hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, on Monday, November 16, 1903, and introduce testimony covering the points above mentioned.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-129.

Muskogee, Indian Territory, October 17, 1903.

L. T. Brown,

Attorney for John Markham, et al.,
Vinita, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of John Markham, et al., as Cherokee freedmen, you are advised that before a decision can be prepared in that case, further testimony is required tending to show whether or not Charlotte Markham's parents, Joe Vann and Susan Vann, were slaves of Cherokee citizens at the commencement of the rebellion.

The applicant has therefore been directed to appear before the Commission at its offices in Muskogee, Indian Territory, on Monday, November 16, 1903, and introduce testimony covering the points above mentioned.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-129.

Muskogee, Indian Territory, December 7, 1903.

Louis T. Brown,

Agent for John Markham.

Vinita, Indian Territory.

Dear Sir:

In the matter of the application of John Markham for enrollment as a Cherokee freedman, which case was set for further hearing at Vinita, Indian Territory, in September, you are hereby advised that, in accordance with the applicant's request the case has again been set for hearing before the Commission, at its offices in Muskogee, Indian Territory, on Thursday, December 17, 1903, at nine o'clock A. M., and the applicant has been notified to appear on that date and introduce testimony tending to show whether his wife's parents, Joe and Susan Vann, were slaves of a Cherokee citizen.

Respectfully,

Chairman.

Cherokee Freedmen
D-129.

Muskogee, Indian Territory, December 7, 1903.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

In the matter of the application of John Markham for enrollment as a Cherokee freedman, which case was set for further hearing at Vinita, Indian Territory, in September, you are hereby advised that, in accordance with the applicant's request the case has again been set for hearing before the Commission, at its offices in Muskogee, Indian Territory, on Thursday, December 17, 1903, at nine o'clock A. M., and the applicant has been notified to appear on that date and introduce testimony tending to show whether his wife's parents, Joe and Susan Vann, were slaves of a Cherokee citizen.

The Cherokee Nation will be permitted to appear on that date and introduce testimony in rebuttal upon the points mentioned above.

Respectfully,

Chairman.

Cherokee Freedmen
D-129.

Muskogee, Indian Territory, December 7, 1903.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a Cherokee freedman, which case was set for further hearing at Vinita, Indian Territory, in September, you are hereby advised that in accordance with your verbal request the case has again been set for hearing before the Commission at its offices in Muskogee, Indian Territory, on Thursday, December 17, 1903, at nine o'clock A. M., and you are directed to appear on that date and introduce testimony tending to show whether your wife's parents, Joe and Susan Vann, were slaves of Cherokee citizens.

Respectfully,

Chairman.

COMMISSIONERS:

TAMM BIXBY,
THOMAS B. NEEDLES
C. R. BRACKENRIDGE

WM. O. BRALL,
Secretary.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

860

REFER IN REPLY TO THE FOLLOWING:

Cherokee Freedman

D-129.

ADDRESSES ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, February 27, 1905.

John Martin,

Wagoner, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of February 20, 1905, asking to be advised as to the status of your application for enrollment as a Cherokee freedman.

In reply you are advised that the Commission has not yet rendered a decision in the matter of your said application. When a decision has been prepared you will be furnished with a copy.

You are further advised that in accordance with a recent ruling of the Commission any applicant for enrollment as a citizen of the Cherokee Nation will be permitted to make an allotment selection, and the same will be held pending the final determination of the citizenship of the applicant.

Respectfully,

C. R. Brackenridge

Commissioner in Charge.

COPY.

Cherokee Freedmen

D 129.

Muskogee, Indian Territory, April 22, 1905.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 22, 1905, rejecting, among others, the application for the enrollment of yourself, your wife Charlotte Markham, and your minor child, Joe Markham, as Cherokee freedmen. There has heretofore been furnished your attorney, Louis T. Brown, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED). *Tame Bixby.*

Chairman.

Incl. 8-24
Register

COPY.

Cherokee Freedmen

D-129.

Muskogee, Indian Territory, April 22, 1905.

Louis T. Brown,

Attorney for John Markham, et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 22, 1905, rejecting, among others, the application for the enrollment of John Markham, et al., as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(SIGNED).

Tamc Bixby.
Chairman.

Incl. S-26
Register

COPY.

Cherokee Freedmen

D-782-129.

Muskogee, Indian Territory, April 22, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 22, 1905, dismissing the application for the enrollment of Eveline Kirk, and rejecting the applications for the enrollment of Emory Kirk, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Incl. S-27

(SIGNED).

Tame Dixby.
Chairman.

COPY.

Cherokee Freedmen
D-782-189.

Muskogee, Indian Territory, April 22, 1908.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Emory Kirk, et al., including the Commission's decision dated April 22, 1908, rejecting the applications for the enrollment of Emory Kirk, John, Charlotte and Joe Markham, and dismissing the application for the enrollment of Evaline Kirk, as Cherokee freedmen.

Respectfully,

(SIGNED) *Tams Bixby.*
Chairman.

Incl. 8-28.

Through the

Commissioner of Indian Affairs.

Muskogee, Indian Territory, November 11, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

This office is in receipt of Departmental letter of October 19, (I.T.D. 4960-1905) asking to be advised if the names of Dave Vann, Joe Vann, Susan Vann, Lizzie Vann, Alice Vann, and Charlotte Markham appear upon any of the tribal rolls of the Cherokee Nation in the possession of this office. It is stated that the information is desired in connection with the adjudication of the application of Charlotte Markham for the enrollment of herself and her niece, Alice Vann, daughter of Lizzie Vann, deceased, as Cherokee freedmen.

In reply you are respectfully advised that the name of Dave Vann appears upon the 1880 authenticated roll of citizens of the Cherokee Nation, No. 1217, Saline district, as David Vann. The following notation appears opposite his enrollment: "David Vann claims citizenship by marriage. Wife's name, Sarah Pack, Jack Pack's daughter". His name is also identified on the 1896 Cherokee census roll, page 423, No. 611, Cooweescoowee district, as David Vann.

The names of Joe and Susan Vann cannot be identified on any of the tribal rolls of the Cherokee Nation in the possession of this office.

One Lizzie Vann is identified upon the Wallace roll of Cherokee freedmen, page 65, No. 1381, Illinois district, twenty-one years of age at that time. There is a notation on said roll to the effect that said Lizzie Vann is dead. This office is unable to ascertain whether or not the person there identified is the Lizzie Vann in question.

Alice Vann is identified on the Kern-Clifton roll of Cherokee freedmen, No. 754, Cooweescoowee district.

Charlotte Markham has been identified on the Wallace roll, page 174, No. 3251, Cooweescoowee district.

In this connection the Department's attention is called to the fact that application for the enrollment of Alice Vann has been disposed of, her name having been transferred from a freedmen doubtful to a freedmen straight card in accordance with an order of the Chairman of the Commission to the Five Civilized Tribes, dated March 16, 1905, and her name is included in a schedule of Cherokee freedmen, approved by the Department on July 27, 1905. The record in the matter of the application for the enrollment of said Alice Vann shows that she is the illegitimate child of Lizzie Vann, deceased, and Ben Vann, whose name appears on the 1880 authenticated Cherokee roll, No. 3131, Cooweescoowee district,

and whose name appears on a schedule of Cherokee freedmen, approved by the Department on January 16, 1903, opposite No. 1940.

Respectfully,

LS

Commissioner.

Through the
Commissioner of Indian Affairs.

COPY.

Muskogee, Indian Territory, November 14, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

On April 22, 1905, the Commission to the Five Civilized Tribes forwarded for Departmental review the record in the consolidated case of Emory Kirk, et al., Cherokee Freedman D-782 et al. Recently this office has ascertained that one of the applicants included in that decision, to-wit: John Markham is a duplicate of an applicant for enrollment under the name of Sudie Kirk, Cherokee Freedman D 1264, and that in this latter case testimony tending to establish facts not set forth in the record submitted to the Department has been taken.

In order that the applications of John Markham, et al., Cherokee Freedman D 129, and Sudie Kirk, Cherokee Freedman D 1264, may be consolidated and the entire record in both cases considered in determining the right to enrollment of the applicant applied for under the names of John Markham and Sudie Kirk, it is respectfully requested that the entire record in the consolidated case of

Secretary---2.

COPY.

Emory Kirk, et al., transmitted as above stated on April 22, 1905,
be returned to this office.

Respectfully,

(SIGNED):

Tame Bixby.

Commissioner.

GHL

Through the
Commissioner of Indian Affairs.

(COPY)

D. C. 53809-1905.
I.T.D. 4960-05.
5726-05.
15754-05.

G.R.
S.P.

LRS

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

November 27, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with your request made by letter, dated November 14, 1905, and upon the representations made therein, there is herewith transmitted to you through the Indian Office the record in the consolidated case of Emory Kirk, et al., Cherokee freedman D -- 782 et al., for the readjudication of the claim of John Varkham alias Sudie Kirk.

Respectfully,

(Signed) Thom Ryan

First Assistant Secretary.

1 enclosure.

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

COPY:

D-1264.

Muskogee, Indian Territory, December 6, 1905.

Apple & Franklin,

Attorneys for Sudie Kirk,

Muskogee, Indian Territory.

Gentlemen:

This office is in receipt of your letter of November 29, asking that an early decision be rendered in the matter of the application for the enrollment of John Markham, also known as Sudie Kirk.

In reply, you are advised that a decision will probably be rendered in said case within the near future. There is inclosed herewith, for your information, a copy of Departmental letter of November 27, 1905, with reference to said case.

Respectfully,

Incl. S-27

SIGNED.

Wm. O. Seall
Acting Commissioner.

Cherokee Freedmen

COPY

129
D-7821

Muskogee, Indian Territory, December 6, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith, for your information, copy of Departmental letter of November 27, returning at the request of this office, the record in the matter of the application for the enrollment, as Cherokee freedmen, of Emory Kirk, et al., Freedmen D-782, et al., to be used in connection with the readjudication of the claim of John Warkham, alias Sadie Kirk.

Respectfully,

Encl. 3-26

J. M. Beall
Acting Commissioner.

Cherokee Freedmen

COPY.

D-129.

Muskogee, Indian Territory, December 9, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of an order of the Acting Commissioner to the Five Civilized Tribes cancelling the application for the enrollment of Sudie Kirk, Cherokee Freedmen D 1264, and transferring the record therein to Cherokee Freedmen D 129, John Markham, et al., it appearing that Sudie Kirk is identical with John Markham, listed on Freedmen D 129.

Respectfully,

SIGNED.

Wm. O. Beall
Acting Commissioner.

Incl. S-34

Cherokee Freedmen

D-129.

Muskogee, Indian Territory, December 12, 1905.-

John Markham,

Wagoner, Indian Territory.

Dear Sir:

You are requested to advise this office immediately whether or not I. P. Fledsoe of Choteau, Indian Territory, still represents you in the matter of your Cherokee freedman enrollment case, and whether or not you have employed any other attorney to represent you.

Respectfully,

LS

Acting Commissioner.

(C O P Y)

Dec. The 18, 1905

Mr. Wm. O. Beall

I write you these lines to let you know I did employed I. P. Bledsoe but I could not hear nothing from him and I thought that he charged me too much \$200 Dollars and I employed another lawyer in in Muskogee He only charged me 50 Dollars. I employed him for my atoryner. I notify him about it

Nothing more at present from

John Markham to

Wm. O. Beall

Cherokee Freedmen

D-129.

Muskogee, Indian Territory, December 22, 1906.

Apple & Franklin,

Attorneys for John Markham, et al.,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of an order cancelling the application for the enrollment of Sudie Kirk, Cherokee Freedmen D-1264, and transferring the record therein to Cherokee Freedmen D-129, John Markham, et al., it appearing that Sudie Kirk is identical with John Markham, listed on Freedmen D-129.

Respectfully,

Incl. S-35.

Commissioner.

Cherokee Freedman
D 129-D 782

Muskegee, Indian Territory, December 28, 1905

W. W. Hastings,

Attorney for Cherokee Nation,
Muskegee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated December 28, 1905, affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, rejecting the applications for the enrollment of Emory Kirk and Charlotte Markham and dismissing the application for the enrollment of Evaline Kirk, and reversing the decision of the Commission to the Five Civilized Tribes of April 22, 1905, as to John Markham and Joe Markham, and enrolling said John and Joe Markham as Cherokee Freedmen .

The decision, together with the record of proceedings had in this case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. B-9 4

Commissioner

Cherokee Freedmen
D 782

Muskogee, Indian Territory, December 28, 1905

Silas Kirk,

Cedar, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated December 28, 1905, affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, rejecting, among others, the application for the enrollment of your father, Emory Kirk, and dismissing the application for the enrollment of his wife, Evaline Kirk, as Cherokee freedmen. Your attorneys, Apple & Franklin, Muskogee, Indian Territory, have heretofore been furnished a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. B-93
Register

Commissioner

Cherokee Freed-
man D 129--782.

Muskogee, Indian Territory, December 28, 1905.

Apple & Franklin,

Attorneys for John Markham et al.,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated December 28, 1905, affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, rejecting the applications for the enrollment of Emory Kirk and Charlotte Markham and dismissing the application for the enrollment of Evaline Kirk, and reversing the decision of the Commission to the Five Civilized Tribes of April 22, 1905, as to John and Joe Markham, and granting said John and Joe Markham as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in this case has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Incl. GL-13.
GHL
Register.

Commissioner.

Muskogee, Indian Territory, December 28, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the consolidated application for the enrollment of Emory Kirk et al., as Cherokee freedmen, including the decision of the Commissioner to the Five Civilized Tribes, dated December 22, 1905, affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, rejecting the applications for the enrollment of Emory Kirk and Charlotte Markham and dismissing the application for the enrollment of Evaline Kirk, and reversing that part of the Commission's decision of April 22, 1905, adverse to John Markham and Joe Markham, and granting the right of enrollment as Cherokee freedmen to said John and Joe Markham.

Respectfully,

Incl. GL-12.
GHL

Commissioner.

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

D-129.

COPY.

Muskogee, Indian Territory, January 13, 1906.

Apple & Franklin,

Muskogee, Indian Territory.

Gentlemen:

You are advised that this office is in receipt of a communication from John Markham of Choteau, Indian Territory, dated January 5, 1906, stating that he has employed I. P. Bledsoe of Choteau, Indian Territory, to represent him in the matter of his application for enrollment as a Cherokee freedman, and that the authority heretofore given any other attorney to represent him is revoked.

Respectfully,

(SIGNED).

Iams Bixby.

Commissioner.

LS

-COPY-

G.R.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

D.C. 22185.
I.T.D. 9862-1906.

L.R.S.
Direct.

June 2, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

You are requested to forward direct to the Department a copy of the 1880 Cherokee roll so far as showing the enrollment of one "Sudie Kirk, Page 5, #33, O. R., Cooweescoowee District; Ad. Cop.," Showing his age at date of enrollment and post-office address.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

Muskogee, Indian Territory, June 5, 1906

DIRECT

The Honorable,

The Secretary of the Interior.

Sir:

In reply to Departmental letter of June 2 (I.T. D. 9862-1906), you are advised that the name of Sudie Kirk appears upon the 1880 authenticated roll of citizens of the Cherokee Nation, Orphan Roll, Cooweescoowee District, page 5, number 33, a male, aged fourteen years at that time, adopted colored. You are further advised that the postoffice addresses of persons appearing upon the 1880 roll, are not given.

Respectfully,

LMB

Commissioner

DEPARTMENT OF THE INTERIOR, LLB

G.R.

WASHINGTON.

D.C. 25589.
I.T.D. 4960-1905.
9862-1906.
L.R.S.

June 19, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department is not satisfied that John Markham or John Marcum, who testified on April 20, 1901, and again on December 17, 1903, in his application for enrollment as a Cherokee freedman (Cher. Fr. D. 129), is identical with Sudie Kirk, whose name appears upon the 1880 authenticated roll of citizens of the Cherokee Nation, Orphan Roll, Cooweescowee District, page 5, No. 33, a male, age 14 years at that time, adopted colored, ~~for~~ whose enrollment one Emmet Starr applied June 30, 1902.

John Markham claims to be the son of Emory Kirk and Polly Alberty, both of whom belonged, as slaves, to Bill Alberty, a Cherokee citizen, who took them to the Choctaw Nation during the war.

Oscar Marcum testified that the father of John Markham was Kirk Alberty, and William Marcum, whose father, Fred Markham, raised applicant from babyhood, testified that the mother of John Markham was named Katie.

Emory Kirk in his application made June 20, 1901, for the enrollment only of himself and wife, Evaline Kirk, nee Nave,

nowhere mentions having had a wife named Polly Alberty or Katie Alberty, nor a son named Sudie Kirk. Nor does applicant, John Markham, in his testimony taken April 20, 1901, and December 17, 1903, anywhere state that he was known by the nickname of Sudie, or that he was ever enrolled as Sudie Kirk on the 1880 roll, and he first made such claim on June 16, 1906, after the return of the record and the consolidation of his application with that of Emory Starr made June 30, 1902, for the enrollment of one Sudie Kirk.

William Marcum testified that Silas Kirk, Lincoln Alberty, and John Markham, the applicant, are brothers, the issue of the same father and mother.

The record is remanded with instructions to secure the testimony of Emory Kirk, if still living, post-office Chouteau station, Cherokee Nation, Ind. T.; also Jerry Alberty, near Wagoner, Ind. T., who claims to have known Emory Kirk "ever since he knowed himself," and went south with him during the war; also Lincoln Alberty, of Wagoner, Ind. T., with a view to determine whether Emory Kirk ever had a wife named Polly or Katie, or a son named Sudie, and the applicant, John Markham, should be identified, if possible, by Emory Kirk as to whether he is his son.

Further evidence should also be taken to determine whether Joe Vann, alleged father of Charlotte Markham, wife of John Markham, returned to the Cherokee Nation prior to February 11, 1867, and is entitled to enrollment as a Cherokee freedman,

-3-

it being shown that he was the slave of one Dave Vann, an intermarried Cherokee citizen. The Cherokee Nation should be represented at the hearing.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inclosure.

COPY.

Muskogee, Indian Territory, July 2, 1906.

John Markham,

Wagoner, Indian Territory.

Dear sir:

In connection with the Cherokee freedman enrollment case of yourself, wife and child, and your father, Emory Kirk, you are advised that this office is in receipt of Departmental letter of June 19, 1906, instructing this office as follows:

"The record is remanded with instructions to secure the testimony of Emory Kirk, if still living, postoffice Chouteau station, Cherokee Nation, Ind. T.; also Jerry Alberty, near Wagoner, Ind. T., who claims to have known Emory Kirk "ever since he knowed himself," and went south with him during the war; also Lincoln Alberty, of Wagoner, Ind. T., with a view to determine whether Emory Kirk ever had a wife named Polly or Katie, or a son named Sudie, and the applicant, John Markham, should be identified, if possible, by Emory Kirk as to whether he is his son.

"Further evidence should also be taken to determine whether Joe Vann, alleged father of Charlotte Markham, wife of John Markham, returned to the Cherokee Nation prior to February 11, 1867, and is entitled to enrollment as a Cherokee freedman, it being shown that he was the slave of one Dave Vann, an intermarried Cherokee citizen."

John Markham--2

Your agent, I. P. Bledsoe, Chouteau, Indian Territory, has this day been advised of Departmental action, and directed to furnish this office at the earliest practicable date, with a list of the names and addresses of the witnesses proposed to be introduced in this case, and notified that upon receipt of such information a day would be set for a hearing in this case, of which action all parties at interest would be advised.

Respectfully,

(SIGNED),

Tams Bixby.
Commissioner

L M B

D. F. 27700
129-782

Chouteau, I.T. July 5, 1906.

Dear Sirs:

In regard to the consolidated cases of Emory Kirk et al-- John Markham(or Budie Kirk) Charlotte Markham & Doc Vann I wish to use the following witnesses at Choteau I.T. William Rider-- James Rider, Sig Markham--Ned Adair--Lincoln Alberty Ruth Alberty Wagoner, I. T. Dave French, Lenapah I.T. and a host of others if necessary, but please have these notified of the day & date set by you and the Cherokee Nation for a hearing in these cases. Emory Kirk is dead as is also Jerry Alberty. Please send me a copy of the evidence in the Emory Kirk case also in Charlotte Markham case.

Very Respt.

I.P.Bledsoe.

D. C. 30551

Wagoner, I. Ter., July 21, 1906.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

In reference to Cherokee Freedman D 782-D129, application for the enrollment of Emory Kirk, deceased, as a Cherokee Freedman I beg to advise Silas Kirk of Cedar, I.T. has forwarded your letter of July 2nd in reference to the above matter. I beg to advise that the following are witnesses which we desire to use:

Ell's Snow, Wagoner, I.T.

✓ Ritha Alberty, Wagoner, I.T.

Jim Ryder, Chouteau, I.T.

As soon as the matter is set down for hearing, kindly advise and oblige,

Yours very truly,

Link Alberty

ES

D.C. 31872

C.F.D. 782 & 129

Chouteau, I.T., July 27, 1906.

Dear Sirs:

In reply to yours of 25 inst In regard to the witnesses I may introduce in Cherokee Freedmen cases Emory Kirk et al embracing the case of Charlotte Markham and John Markham(Sadie Kirk). I will state again that I desire to introduce Ned Adair, James Rider, Ross Alberty, Dave Vann of Choteau, I.T. Lincoln Alberty of Wagoner, I.T. & Silas Kirk of Nowata or Lenapah, I.T., as I think these witnesses will establish all the facts desired by the Commissioner & Commission. Please have these cases set as early as consistent with justice

Respt,

I.P. Fledgce.

Cherokee Freedman
D 782 and 129.

Muskogee, Indian Territory, July 30, 1906.

Link Alberty,

Wagoner, Indian Territory.

Dear Sir:

This office is in receipt of your letter of July 21, stating that you propose to introduce, on behalf of the applicants in the Cherokee freedman enrollment case of Emory Kirk, et al, the testimony of Ellis Snow and Rutha Alberty of Wagoner, Indian Territory, and Jim Ryder of Chouteau, Indian Territory, and asking to be advised when the case will be set for hearing.

In reply you are advised that this office received a letter from I. P. Bledsoe, Chouteau, Indian Territory, dated July 5, giving the names of certain witnesses which he proposed to introduce in the case and stating that he had certain other witnesses if they were necessary. He requested that this office advise the persons named by him that their testimony is desired in the case. He was advised that before the case would be set for hearing he would be required to advise this office of the names and addresses of all the witnesses he proposed to introduce in the case, and that he would be expected to notify them

and have them present on the date fixed for the hearing in the case, of which he would be advised. It is suggested that you communicate with Mr. Bledsoe and advise this office at the earliest practicable date, the names and addresses of all witnesses whose testimony it is proposed to introduce in this case, and upon receipt of that information a date will be fixed for a hearing of the case, of which action all parties at interest will be advised.

Respectfully,

M.A.

Commissioner.

Cherokee Freedman
D 782 and 129.

Muskogee, Indian Territory, July 30, 1906.

I. P. Bledsoe,

Agent for Emory Kirk, et al,

Chouteau, Indian Territory.

Dear Sir:

You are advised that this office is in receipt of a letter from Link Alberty, at Wagoner, Indian Territory, dated July 21, 1906, stating that it is proposed to introduce, on behalf of applicants in the Cherokee freedman enrollment case of Emory Kirk, et al, the testimony of Ellis Snow and Rutha Alberty of Wagoner, Indian Territory, and Jim Ryder of Chouteau, Indian Territory.

Mr. Alberty, has this day been advised of this office's letter to you of July 25, 1906, in which you were requested to advise this office of the names and addresses of all the witnesses you expect to introduce in the case of Emory Kirk, et al, and it was suggested to him that he communicate with you and that this office be advised at the earliest practicable date of the names and addresses of all witnesses whose testimony it is proposed to introduce in the case.

Respectfully,

M.A.

Commissioner

Cherokee Freedman
D 129.

Muskogee, Indian Territory, July 31, 1906.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

You are advised that this office is in receipt of communications from your agent, I. P. Bledsoe, Chouteau, Indian Territory, and Link Alberty, Wagoner, Indian Territory, giving a list of the names and addresses of the witnesses they propose to introduce in your Cherokee freedman enrollment case. You are advised that you will be permitted to appear before the offices of the Commissioner at Muskogee, Indian Territory, at 9 o'clock, A. M., Thursday, August 16, 1906, and introduce the testimony of the witnesses named by them. The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal such testimony as it desires in this case.

Respectfully,

M.A.

Commissioner.

Cherokee Freedman
D 782 and 129.

Muskogee, Indian Territory, July 31, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are advised that this office is in receipt of a letter from I. P. Bledsoe, Chouteau, Indian Territory, dated July 27, 1906, stating that it is proposed to introduce in the Cherokee freedman case of Emory Kirk, et al, the testimony of the following witnesses;

Ned Adair -----	Chouteau, I. T.
✓ James Rider -----	Chouteau, I. T.
✓ Rose Alberty -----	Chouteau, I. T.
Dave Vann -----	Chouteau, I. T.
✓ Lincoln Alberty -----	Wagoner, I. T.
Silas Kirk -----	Nowata, I. T.

This office is also in receipt of a letter from Link Alberty, Wagoner, Indian Territory, dated July 21, 1906, stating that it is proposed to introduce, in addition to the above mentioned witnesses, the testimony of Ellis Snow and Rutha Alberty, of Wagoner, Indian Territory.

The applicants, and their agent, have this day

been notified that they will be permitted to appear before the offices of the Commissioner at 9 o'clock, Thursday, August 16, 1906, and introduce the testimony of the above mentioned witnesses in this case. The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal such testimony as it desires.

Respectfully,

M.A.

Commissioner.

Cherokee Freedman
D 782 and 129.

Muskogee, Indian Territory, July 31, 1906.

I. P. Bledsoe,

Agent for Emory Kirk, et al,

Chouteau, Indian Territory.

Dear Sir:

In reply to your letter of July 27, advising the names and addresses of the witnesses you propose to introduce in the Cherokee Freedman case of Emory Kirk, et al, you are advised that you will be permitted to appear before the offices of the Commissioner at 9 o'clock, A. M., on Thursday, August 16, 1906, and introduce the testimony of the witnesses named by you. The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal such testimony as it desires in this case.

In this office's letter to you of July 30, you were advised that this office was in receipt of a letter from Link Alberty, Wagoner, Indian Territory, dated July 21, 1906, stating that it was proposed to introduce in the Kirk case, the testimony of Ellis Snow and Ruth^a Alberty of Wagoner, Indian Territory, and you are now advised that you will be

-2-

permitted to introduce the testimony of those witnesses on
the above mentioned date.

Respectfully,

M.A.

Commissioner.

Cherokee Freedman
D 782 and 129.

Muskogee, Indian Territory, July 31, 1906.

Link Alberty,

Wagoner, Indian Territory.

Dear Sir:

You are advised that this office is in receipt of a letter from I. P. Bledsoe, Chouteau, Indian Territory, agent for applicants in the Cherokee freedman cases of Emory Kirk, et al, stating that it was proposed to introduce in said case, the testimony of the following witnesses;

Ned Adair ----- Chouteau, I. T.

James Rider ----- Chouteau, I. T.

Rose Alberty ----- Chouteau, I. T.

Dave Vann ----- Chouteau, I. T.

Lincoln Alberty ----- Wagoner, I. T.

Silas Kirk ----- Nowata, I. T.

In your letter to this office of July 21, you state that it is proposed to introduce in these cases, the testimony of Ellis Snow and Rutha Alberty of Wagoner, Indian Territory and Jim Ryder, of Chouteau, Indian Territory, and you are now advised that the principal applicants in these cases will be permitted to appear before the offices of the Com-

missioner in Muskogee, Indian Territory, at 9 o'clock A. M.,
On Thursdau, August 16, 1906, and introduce in these cases
the testimony of all of the above named witnesses.

The Cherokee Nation will also be permitted to
appear on that date and introduce in rebuttal such testimony
as it desires in the cases.

Respectfully,

M.A.

Commissioner.

Cherokee F D
129 and 782

Muskogee, Indian Territory, August 28, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, August 16, 1906, in the matter of the application for the enrollment of John Markham, et al., and Emory Kirk, as Cherokee freedmen.

Respectfully,

Incl. GL-76.
OHL

Acting Commissioner.

Cherokee F D
129 and 782

Muskogee, Indian Territory, August 28, 1906.

I. P. Bledsoe,

Agent for John Markham, et al.,

Choteau, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, August 16, 1906, in the matter of the application for the enrollment of John Markham, et al., and Emory Kirk, as Cherokee freedmen.

Respectfully,

Incl. GL-75.
GHL

Acting Commissioner.

(COPY)

D. C. 43431

J.P. Jr.

DEPARTMENT OF THE INTERIOR, THE
WASHINGTON.

I.T.D. 17728 1906.
4841-1905.

September 28, 1906.

J.P.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On September 13, 1906 (Land 71809), the Indian Office transmitted your report of August 16, 1906, in reference to a communication from Oscar Markham, of Choteau, Indian Territory, relative to the Cherokee enrollment case of Jacksie Markham et al.

You stated that apparently through inadvertence the Commission failed to make report on this letter, as it is shown by your records to have been answered in person on June 9, 1906.

No recommendation was made by the Indian Office.

Your report is hereby approved.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

Through the Commissioner
of Indian Affairs.

Muskogee, Indian Territory, January 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the application for the enrollment of Emory Kirk, et al., together with the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, affirming the decision of the Commissioner, dated December 28, 1905, rejecting the applications for the enrollment of Emory Kirk and Charlotte Markham, and dismissing the application for the enrollment of Evaline Kirk, as Cherokee freedmen, and granting the application for the enrollment of John Markham and Joe Markham as Cherokee freedmen.

There is also transmitted herewith a schedule containing the names of John Markham and Joe Markham, Nos 4220 and

-----2

4221, and in the event of the approval of the Commissioner's decision enrolling said applicants, the approval of this schedule is recommended.

The names of the persons appearing on this schedule here follow in the same numerical order as on the schedule:

No.	Name
4220	Markham, John
4221	Markham, Joe

Respectfully,

Enc I-1

Commissioner.

NPY

Through the Commissioner
of Indian Affairs.

Cherokee P.
D-129.

Muskogee, Indian Territory, January 28, 1907.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, dismissing the application for the enrollment of Evaline Kirk and rejecting the application for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and granting your application for the enrollment of yourself and son, Joe Markham, as Cherokee freedmen. Your agent, I. P. Bledsoe, Chouteau, Indian Territory, has heretofore been furnished a copy of the record of proceedings had in the case, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Register

Encl. H-50
JMW

Respectfully,

Commissioner.

Cherokee F.
D-129 et al

Muskogee, Indian Territory, January 28, 1907.

I. P. Bledsoe,

Agent for John Markham, et al.,

Chouteau, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, dismissing the application for the enrollment of Evaline Kirk and rejecting the application for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and granting the applications for the enrollment of John and Joe Markham as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Enc H-51

JMH

Commissioner.

Cherokee F.
D-129 et al.

Muskogee, Indian Territory, January 28, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, dismissing the application for the enrollment of Evaline Kirk and rejecting the application for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and granting the application for the enrollment of John and Joe Markham as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-52
JMH

Commissioner.

LAND
10314-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

COPY

February 16, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed the record of proceedings in the matter of the applications for the enrollment of Emory Kirk, et al., together with the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, affirming the decision of the Commissioner dated December 28, 1905, rejecting the applications for the enrollment of Emory Kirk and Charlotte Markham, and dismissing the application for the enrollment of Evaline Kirk, as Cherokee freedmen, and granting the application for the enrollment of John Markham and Joe Markham, as Cherokee freedmen.

There is also enclosed a schedule containing the names of John Markham and Joe Markham, Nos. 4220 and 4221, and the approval of the schedule is recommended.

The record shows that the applications for the enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Emory Kirk, for himself and wife, Evaline Kirk, and by John Markham, for himself and wife, Charlotte Markham, and their minor son, Joe Markham.

The record further shows that on April 12, 1905, the Commissioner to the Five Civilized Tribes rendered its decision denying the applications for the enrollment of Emory Kirk, John Markham, Charlotte Markham and Joe Markham, as Cherokee freedmen, and dismissing the application for the enrollment of Evaline Kirk.

On November 27, 1905, (I.T.D. 4960-5726-15764), at the request of the Commissioner to the Five Civilized Tribes, the Department returned this case to the office of Commissioner Bixby for the readjudication of the claim of John Markham, alias Sudie Kirk; that on December 28, 1905, the Commissioner to the Five Civilized Tribes rendered a decision affirming the decision of the Commission to the Five Civilized Tribes of April 22, 1905, in so far as it affected the applicants Emory Kirk, Evaline Kirk, and Charlotte Markham, and rescinded the decision as to the applicants John and Joe Markham, and granted their applications for enrollment as Cherokee freedmen.

On January 19, 1906, (I.T.D. 4960-1905--9862-1906), the Department returned the record in this case to the office of the Commissioner to the Five Civilized Tribes with instructions to secure the testimony of Emory Kirk, Jerry Alberty and Lincoln Alberty, with a view to determining whether Emory Kirk ever had a wife named "Polly," or "Katie," or a son named "Sudie," and directed, if possible, that John Markham be identified as the son of Emory Kirk.

Further proceedings were had at Muskogee, I.T., on August 16, 1906.

The evidence shows that the applicant, John Markham, is the son of Polly Kirk, deceased, formerly the wife of Emory Kirk; that Polly Kirk was a slave of a Cherokee citizen at the commencement of the war of the Rebellion; that she was taken from the Cherokee Nation during the progress of the war, and returned thereto and established a residence therein on or before February 11, 1867. The evidence further shows that John Markham was born ^{just} before the close of the war; that he removed to the Cherokee Nation with his mother, and has since continuously resided therein.

Commissioner Bixby reports that from the testimony introduced it is impossible to definitely determine whether John Markham is identical with Sudie Kirk, who is identified on the orphan roll of 1880, or the son of Emory Kirk, but it is considered that he acquired Cherokee freedman citizenship under the provisions of Article 9 of the treaty of 1866, and as the descendant of his mother, and by virtue of his return with her to the Cherokee Nation prior to February 11, 1867.

The evidence further shows that the applicant Joe Markham is the son of John Markham; that he was born in the Cherokee Nation and has continuously resided therein since birth.

Joe Markham is duly identified as the son of John Markham by birth affidavit, which is made a part of the record.

In view of the facts as herein set out, the office censures in the decision of Commissioner Birby that the decision of the Commissioner to the Five Civilized Tribes, dated December 28, 1905, denying the applications for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and dismissing the application for the enrollment of Evaline Kirk, be affirmed, and that under the provisions of Section 21 of the Act of Congress approved June 28, 1898, (30 Stat.L., 495), John Markham and Joe Markham be enrolled as Cherokee freedmen.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

HEM-LC.

SPECIAL

JVJr.

D.C. 10661-1907

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I.T.D. 3878-1907.
LRS

February 19, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 16, 1907 (Land 10314), the Indian Office transmitted your report dated January 28, 1907, in the matter of the applications for the enrollment of Emory Kirk for himself and wife, Evaline Kirk, and by John Markham for himself and wife, Charlotte Markham, and their minor son, Joe Markham, as Cherokee freedmen, together with your decision of January 28, 1907, denying the application for the enrollment of Emory Kirk and Charlotte Markham as Cherokee freedmen, and dismissing the application for the enrollment of Evaline Kirk, and granting the application for the enrollment of John Markham and Joe Markham as Cherokee freedmen. You also enclosed a schedule of Cherokee freedmen, containing the names of John Markham and Joe Markham, and the approval of the same is recommended.

The Indian Office concurs in your decision. A copy of its letter is inclosed.

The Department has considered said case, and your decision is hereby affirmed.

-2-

The schedule transmitted bearing the names of John Markham and Joe Markham has been approved this day, and two copies thereof are returned herewith. The original and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

(Signed)

Thos Ryan

First Assistant Secretary.

3 inc/ and 2 to Ind. Of.

AFMc
2-29-07

Cherokee F.D.
129

COPY

Muskogee, Indian Territory, March 9, 1907.

John Markham,

Wagoner, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, granting the application for the enrollment of yourself and son, Joe Markham, and denying the application for the enrollment of your wife, Charlotte Markham, as Cherokee freedmen, was affirmed by the Secretary of the Interior, February 19, 1907.

Respectfully,

SIGNED *James D. [illegible]*
Commissioner.

RPI

Cherokee F.D.
129 et al.

COPY

Muskogee, Indian Territory, March 9, 1907.

I. P. Bledsoe,

Agent for John Markham, et al.

Choteau, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 28, 1907, granting the application for the enrollment of John and Joe Markham, and denying the application for the enrollment of Charlotte Markham, Emory and Evaline Kirk, as Cherokee freedmen, was affirmed by the Secretary of the Interior February 19, 1907.

For your information, there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

SIGNED *Tams S. Sledge*
Commissioner.

Enc I-22

RPI

Cherokee F.D.
129 et al.

Muskogee, Indian Territory, March 9, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 23, 1907, granting the application for the enrollment of John and Joe Markham, and denying the application for the enrollment of Charlotte Markham, Emory and Evaline Kirk, as Cherokee freedmen, was affirmed by the Secretary of the Interior February 19, 1907.

For your information, there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

Enc I-23

RPI

SIGNED *Tams Bick*
Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 28 1902

[Handwritten signature]
ATTORNEY GENERAL

March 23 1831

Received from the Commission to the Five Civilized Tribes one copy of the testimony in the
matter of the application of

John Marshall et al

for enrollment as ~~an~~

Indians

of the Cherokee Nation.

Cherokee No. 129

Louis Brown
Agent.

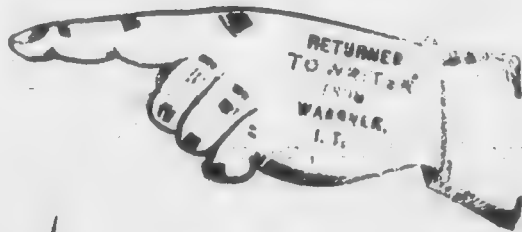
Department of the Interior.

Commission to the Five Civilized Tribes,

MUSKOGEE, IND. TER.



UNCLAIMED



94

186

Cher Fr 1556

(missing)

Cher Fr 1556

Cher Fr 1557

Trans. from Cher Fr D707

Cher Fr 1557

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 12th, 1901.

In the matter of the application of Sarah Flynn for the enrollment of herself and seven children as Cherokee Freedmen; said Flynn being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Messrs. Mellette & Smith, for Applicants.
Mr. J. S. Davenport, for Cherokee Nation.

Q What is your name? A Sarah Flynn.
Q How old are you? A About 40.
Q What is your post office? A Hayden, Lightning Creek.
Q You live in Cooweescoowee District? A Yes sir.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A I have got some children.
Q How many? A Seven.
Q Well, now, the oldest child is named Oliver? A Yes sir.
Q How old is Oliver? A His age is there on the paper.
Q About 20? A Yes sir.
Q The next one named Joseph? A Yes sir.
Q Josepyh about 17? A Yes sir.
Q The next one named Fanny? A Yes sir.
Q Is she about 11? A Yes sir.
Q What is the next one, Serena? A Yes sir.
Q Serena is about eight years old? A Yes sir.
Q What is the next child's name? A Nettie.
Q Well, Nettie's about six years old? A Yes sir.
Q What is the next one's name? A Castella.
Q She is about three is she? A Two years old, going on three.
Q What is the next one, one named Gracie? A Yes sir.
Q She is about a year old? A Yes sir.
Q Are these children all living at this time? A Yes sir.
Q Were they all born in the Cherokee Nation? A No sir, they was four of them born to his mother's.
Q How about the oldest four, Oliver, Joseph, Fanny and Serena, they were born where? A At his mother's.
Q Where is his mother's? A She was living in the State, in Parsons.
Q The oldest four were born in Kansas then? A Yes sir.
Q The next three were born? A On Lightning Creek.
Q In the Cherokee Nation? A Yes sir.
Q What is your father's name? A Joseph Riley.
Q Is he living? A No sir, dead.
Q What is your mother's name? A Mary Riley.
Q Is she living? A No sir.
Q Have you got a brother named Ed Riley? A Yes sir.
Q He is living? A Yes sir.
Q Is he older than you? A No sir.
Q Your name not on the roll of 1880? A No sir.
Q Is it on any of the rolls? A Yes sir.
Q What roll? A I think it is on the Kern-Clifton roll.
Q Are these children all named Flynn? A Yes sir.
Q All your children? A Yes sir.
Q What is your husband's name? A Dennis.
Q Dennis is the father of all these children is he? A Yes sir.
Q Are you 38 or 40? A That is as nigh as I can get at it; I was 38 when I enrolled at the Court down at Fort Gibson.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:

Page 165, #4075, Sarah Flinn, Tahlequah District.
Page 165, #4069, Olive Flin, Tahlequah District.
Page 165, #4070, Joseph Flin, Tahlequah District.
Page 165, #4071, Fannie Flin, Tahlequah District.
Page 165, #4072, Serena Flin, Tahlequah District.

BY MR. WELLETTE:

Q Sarah, where were you living the first you can remember?
A The first one I can remember I was living in Tahlequah District.
Q Cherokee Nation? A Yes sir.
Q Have you lived in the Cherokee Nation ever since that time?
A Yes sir, I went up to his mother on the outside I was sick.
Q To whose mother? A My husband's mother.
Q When you were confined? A Yes sir.
Q This has always been your home? A Yes sir, backwards.

BY COM'R NEEDLES:

Q Your husband is named Dennis Flynn? A Yes sir.
Q His mother lived in Kansas? A Yes sir.
Q Parsons? A Yes sir.
Q Well have you and Dennis always lived in the Cherokee Nation ever since you were married? A Yes sir.
Q Where were you married? A Bluejacket.
Q How does it happen that these four children were born in Kansas?
A I went backwards and forwards to his mother's when I had to be taken care of.
Q Did you have a home here at the time? A Yes sir.
Q As soon as you got well you come back home after that? A Yes sir.

BY MR. DAVENPORT:

Q Was your mother living at that time? A No sir, she wasn't living.
Q Where was your mother living at the time of her death?
A My mother had went off to work out in the State and worked.
Q At what point and what State? A Up towards Burlington.
Q Can you remember when your father and mother lived in Burlington since the war? A No sir.
Q Didn't they live there? A No sir.
Q Have you any recollection of your father living at Emporia since the war? A No sir.
Q Where were you living when they lived there? A I don't know, the first I remember I was living down here at Four Mile Creek, in Tahlequah District.
Q You don't know to whom your father belonged before the war?
A John Riley, I heard him say.
Q He didn't belong to Steven Foreman? A No sir, he belonged to John Riley before the war.
Q Have you ever heard of Steven Foreman's name being connected with being your father's owner? A No sir.
Q Did you ever know Steven Foreman? A No sir.
Q You have some remembrance of Edward Riley, and Richard and Fred?
A Yes sir.
Q Where are they living; are they living or dead?
A They are living.
Q Where are they living? A They are living out on Lightning, three or four miles apart.
Q Do you remember of their living in Kansas at any time since the war or either of them? A No sir.

Sarah Flynn, et al.--3.

- Q You haven't lived in Kansas you say since the war?
A No sir, I don't know nothing about it, only I went to his mother.
Q You never went up to Burlington? A No sir.
Q Or Emporia? A No sir, only went up to Parsons.
Q How long would you say? A Two or three months.
Q Now when were you and your husband married? A I don't know.
Q Do you know whether or not your parents left the Cherokee Nation during the war? A No sir.
Q You don't know what they did in that respect? A No sir.
Q How old is your oldest child? A I just could not tell.
Q Where were you married, and who married you? A Bluejacket; Canada.
Q Was he a Minister? A Yes sir.
Q What is your best idea as to how old your oldest child is?
A I don't know, about 20.
Q Was there a town at Bluejacket at the time you were married?
A No sir, just a bear station.
Q There was a railroad there? A Yes sir.
Q Your husband come in from Kansas and you married him?
A He came from somewhere, I can't say that he came from Kansas; he was going through the country.
Q You say you lived on Fourteen Mile Creek in Tahlequah district?
A Yes sir.
Q Near whom did you live? A I lived there close to Andarka Buffington and I lived close to Jim Paris, Effie Crittenden.
Q Did your mother ever live down there on Fourteen Mile Creek?
A I guess so, that was her home.
Q Well, do you know whether or not she ever lived there?
A Yes sir, that was when I was first big enough to remember.
Q Well, did you live in a house separate to yourself or did you live with some one? A I lived with my mother and father.
Q You and your mother lived separate from someone, just you had a home? A Yes sir.
Q On Fourteen Mile Creek? A Yes sir.
Q Near the Effie Crittenden place? A Yes sir, somewhere in there.
Q How long did you live on Fourteen Mile Creek? A I don't know; we moved there before I got big enough to recollect; I guess about ten or twelve years.
Q That you can recollect? A Yes sir, maybe longer.
Q How long after you left there was it until you were married?
A Well we lived at Bluejacket quite a while, Timbered Hill.
Q Well, about how many years? A I could not tell you, maybe about 11 years.
Q Near about 11 years? A Near so.
Q And as near as you can remember you lived about ten or twelve years up at Fourteen Mile Creek? A Yes sir.
Q And you lived at Bluejacket about 11 years? A Yes sir.
Q Did you live in Bluejacket or not? A I lived four miles west of Bluejacket at Timbered Hill.
Q Was anyone living out there when you moved out there?
A There wasn't hardly anyone.
Q Where was Granville Craig living? A He was living out there on the Hill.
Q C. C. Young? A I don't know where he was living.
Q What year did your mother die? A I can't tell what year mother died in.
Q About how long after the war, do you remember? A No sir.
Q You don't remember your mother's death? A I can't remember how long after the war.
Q You remember when she died? A Yes sir.
Q Where did she die? A Up in Kansas.
Q Your father was up there with her wasn't he, Sarah?

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 13 1901

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Jul. 12 1901

Date

Post Office

District

1. Name

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

12. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

23.	Martha	Year	1865	Page	65	No.	4669	Dist.	20
34.	Joseph	Year	"	Page	65	No.	4670	Dist.	2
44.	Esther	Year	"	Page	65	No.	4671	Dist.	11
54.	William	Year	"	Page	65	No.	4672	Dist.	8
67.	Mattie	Year	"	Page	"	No.	"	Dist.	3
74.	Agatha	Year	"	Page	"	No.	"	Dist.	3
84.	Grace	Year	"	Page	"	No.	"	Dist.	1
10.		Year	"	Page	"	No.	"	Dist.	
11.		Year	"	Page	"	No.	"	Dist.	
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Application made by

Stenographer

1. Dec. 18, 1865, roll 20, Martha

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Presented by Committee and Smith,

notes thereof.

foregoing is a true and complete transcription of the stenographic
recorded the testimony and the proceedings in said case, and that the
referred to the Commission and the five civilized tribes, and that the
J. O. Reason, joint

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

AUG 19 1904

To be filed with case of Sarah Flynn, C. F.D.#707.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 11, 1901.

In the matter of the application of Ed Riley for the enrollment of himself and four children as Cherokee Freedmen, and for his wife as an Intermarried Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Appearances:

Mr. Mellette, of Mellette & Smith, for applicant;
Mr. Hastings, for Cherokee Nation.

- Q Give me your name? A Ed Riley.
Q How old are you? A 33.
Q What is your post office? A Hayden.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to apply for anybody besides yourself? A Yes, sir.
I have four children.
Q Have you a wife you want to apply for? A No, sir, my wife is a state woman.
Q How long since you married your wife? A I guess it has been about eleven years.
Com'r: You had better apply for her, she may have some rights.
Q How long have you lived in the Cherokee Nation? A All my life.
Q You were born in the Nation? A Yes, sir.
Q And lived here always? A Yes, sir.
Q Give me the name of your father? A Joseph Riley.
Q Is he dead? A Yes, sir.
Q How long has he been dead? A Since January '99 I believe, about two years.
Q Give me the name of your mother? A Mary Riley.
Q Is she dead? A Yes, sir.
Q How long has she been dead? A She has been dead I guess about 12 or 14 years.
Q Was your father a Cherokee Freedman? A Yes, sir.
Q Was your mother a Cherokee Freedman? A Yes, sir.
Q You think they were both slaves in the Cherokee Nation when the war broke out? A That's what they say.
Q Who is it that you understand to be your father's owner?
A John Riley.
Q Was he a well known citizen of the Cherokee Nation?
A I suppose he was, that's my understanding.
Q Who was it your mother said she belonged to? Bob Parris.
Q Give me the name of your wife? A Mary Riley.
Q How old is your wife? A Thirty.
Q You say you and she were married some eleven years ago?
A Yes, sir.
Q Have you a certificate of marriage? A No, sir, I haven't.
Q Did a preacher marry you? A Yes, sir.
Q What preacher? A W. P. Jones.
Q Is he living? A No, sir.
Q Were you ever married except to this woman? A No, sir.
Q Was she ever married except to you? A Not to my knowing.
Q Where is she? A She lives out on Lightning Creek.
Q Is she out at home now? A Yes, sir.
Q How long did you know of her before you married her?
A About eight months.
Q You have heard of her having been married? A No, sir.
Q She passed as an unmarried woman? A Yes, sir.
Q Where were her people from? A Pennsylvania.
Q How long had they been in the Territory? A About two years.
Q Did you marry her in the Territory? A Yes, sir.

- Q Give me the names of your children? A Mat Riley.
Q How old is Mat? A Mat is nine years old.
Q Next child? A Jessie Riley.
Q Boy or a girl? A It is a girl.
Q How old is Jessie? A Seven years old.
Q Next child? A Howard.
Q How old is Howard? A 2 years old.
Q Next child? A Annie.
Q How old is Annie? A She isn't a year old, yet, she is about eight months I guess, or nine.
Q Are these children all living now? A All but one.
Q I mean these four? A Yes, sir, them four are living.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found thereon/
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

- Q Did you draw strip money? A Yes, sir.
Q What district were you in when you draw your strip money?
A We were in Tahlequah district when we enrolled with the Kerns Clifton roll.

Kerns Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
Page 165, #4076, Ed Riley, Tahlequah district;
Page 165, #4066, Matt Riley, Tahlequah district.
"In the family of Joseph Riley, three years old."

- Q Was there any Mat except your child? A Not in that family.
Q Did your father have a child named Mat? A No, sir.
Q This Mat is with Joseph Riley, that's your dead father?
A Yes, sir, with my father, my father was living with me.
Q Your father was living with you? A Yes, sir.
Q You only drew for Mat? A Drew for Mat and one they called Fred.
Q Fred is dead? A Yes, sir.
Q Who is there here who knows about you and your wife being married? A My brothers knows it I guess.

REICHARD RILEY, being sworn and examined by Commissioner Breckinridge, testified as follows:

- Q Give your name. A Reichard Riley.
Q How old are you? A 31.
Q What is your post office? A Hayden.
Q Are you a brother of the applicant here? A Yes, sir.
Q Is your brother married? A Yes, sir.
Q How long has your brother been married? A About 11 years.
Q What is the name of his wife? A Mary.
Q What was her name when he married her? A Matthew.
Q What was the name of her father? A Sam Matthew.
Q What was the name of her mother? A Lizzie, I believe.
Q Was your brother ever married except to this woman?
A No, sir.
Q How long did you know her before she married your brother?
A About four or five months.
Q Did you ever hear of her being married before she married him?
A No, sir.

1880 authenticated roll of citizens of the Cherokee Nation examinee for Joseph and Mary Riley, and names not found thereon.

APPLICANT, ED RILEY, re-called, and further examined, by Com'r Breckinridge.

- Q How comes that you are not on the roll of 1880?
A I couldn't tell.
- Q Neither, your father or your mother are on that roll
A No, sir.
- Q Did you apply to get on that roll? A No, sir, I was little, don't remember anything about that.
- By Mr. Mellette: How old are you? A 33.
- Q Where have you lived since you can remember? A Fourteen Mile Creek.
- Q In the Cherokee Nation? A Yes, sir.
- Q How many brothers have you? A I have two brothers here.
- Q How many brothers have you in all? A I think they said there was three or four.
- Q I mean alive? A There's four.
- Q Give me the names of them? A Richard.
- Q How old is he? A About 31.
- Q Where does he live? A He lives out on Lightning Creek.
- Q Now the next one? A Fred Riley. He lives on Lightning Creek, is about 20 years old.
- Q Give me the name of the next one? A Thomas Harling, he is my half brother.
- Q Who was his father? A My father was said to be his father.
- By Com'r Breckinridge: Who was his mother? A I don't know.
- Mr. Mellette: Now give me your other brother, named Riley?
A Ed Riley.
- Q He is not your brother is he? A I give in four, Fred, Rich, and Ed and Thomas Harling.
- Q Have you no sister? A One sister.
- Q What is her name? A Sarah Flynn.
- Q How old is she? A She is older than me.
- By Com'r Breckinridge: Any other sister besides Sarah?
A That's all.
- By Mr. Hastings: Where is your wife now? A Out on Lightning Creek.
- Q What is your post office? A Hayden.
- Q How long have you been living at Hayden? A Since 1896, the fall.
- Q Where did you come from when you moved to Hayden? A Fourteen Mile Cree .
- Q You come direct from Fourteen Mile Creek to Hayden? A Yes, sir.
- Q Who were you neighbors on Fourteen Mile Creek? A Jim Parris, Solomon Harlin, Bass Harlin, David Parris and Tom Beavert.
- Q How far did you live from Tom Beavert? A I guess about a mile, west.
- Q How long did you live there? A I guess I lived there off and on for the last 18 or 20 years.
- Q How long did you live there continuously all the time, right there? A When I was about 12 years old I remember moving over there to Timbered Hill, and then we stayed there quite a while.
- Q What Timbered Hill? A Bluejacket.
- Q How far from Bluejacket? A About I guess two or three miles west.
- Q How long did you live at Timbered Hill, near Bluejacket?
A I guess 7 or 8 years, maybe.
- Q Then you went from Tibered Hill where? A Back down in the lower country.
- Q When you were first old enough to remember you were living on Fourteen Mile Creek? A Yes, sir.
- Q And you were living out there, as you remember, by Bass Harlin?
A Yes, sir.
- Q Did you know Columbus Lasley out there? A I don't remember him.
- A You know Helse Lowrey? A Slightly.
- Q You know Arch Carter? A No, sir.
- Q You know Andy Carter? A No, sir.
- Q You ever in Kansas? A No, sir.

Q What town in Kansas? A No, sir, I said.
Q Who did you say married you? A Man by the name of W. P. Jones, Minister.
Q Your wife was raised? A Yes, sir.
Q Where were you married to her? A Married up about Timbered Hill.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
(Signed) M. D. Green.

Subscribed and sworn to before me this June 21, 1901.
(Signed) T. B. Needles,
Commissioner.

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ED RILEY Application continued; former portion reported by Stenographer M. D. Green.

APPEARANCES:

Messrs. Mellette & Smith for applicants;
Mr. W. W. Hastings, for Cherokee Nation.

JOHN LANDRUM, being duly sworn by Commissioner C. R. Breckinridge, testified as follows: BY MR. MELLETTE:

Q What is your name? A John Landrum.
Q How old are you? A 59.
Q Where do you live? A I live up here on Lightning Creek.
Q Cherokee Nation? A Yes, sir.
Q Are you a recognized Freedman citizen of the Cherokee Nation?
A I am.
Q On the roll of 1880? A Yes, sir.
Q Do you know the applicant here, Ed Riley? A Yes, sir.
Q Do you know Joseph Riley, his father? A Yes, sir.
Q Did you know where he lived at the beginning of the war?
A No, sir; beginning of the war; well I knowed he belonged to old man Riley.
Q You knew he belonged to old man Riley? A Yes, sir.
Q What Riley was that? A Looney Riley.
Q Where was that; where did old man Looney Riley live?
Q He lived somewhere about Park Hill.
Q In what Nation? A In the Cherokee Nation.
Q Was he a Cherokee citizen? A Yes, sir.
Q Well, now, did you know Mary Riley, this boy's mother?
A Wasn't quite acquainted with her, I seen her once or twice.
Q Do you remember what her name was before she married Joseph?
A No, sir, I don't.
Q Well, now, do you know where Joseph Riley went during the war?
A Went to Kansas.
Q Do you know when he returned to the Cherokee Nation after the war? A I seen him when he was coming home.
Q When was that? A That was in the winter of '66 I seed him on Lightning Creek, between Lewis' and my place; on Lightning Creek, I had just got there.
Q Where? A Between Lewis Right and my place on Lightning Creek I met him coming this way; he said he was coming to his old home.
Q That was down in Tahlequah district? A Yes, sir.
Q Well, now, what was that before Christmas or after Christmas in 1866? A It was just a little after Christmas.
Q How long after Christmas? A It was about between three and four weeks.

Q Well, now, did you see him any more? A I seen him ten years after that as near as I can remember.

Q Where? A Seen him on fourteen Mile Creek.

Q Of what Nation? A In the Cherokee.

Q Well, after you saw him on Fourteen Mile Creek did you ever see him any more? A Not till he moved up here.

Q Well when did he move up here? A It has been between three or four years; don't know if its that long.

By Mr. Hastings: When did Joe die? A He died here about, I can't just remember; well it ain't been, it has been over a year; maybe two years; maybe going on two years, ain't been dead so awful long.

Q Where did you live before the war? A I lived up on Cabin Creek. A How far was that from Vinita? A Well, about two or three miles south of Vinita.

Q That was when the war come up? A That is before the war you are asking me?

Q Yes. A That is before the war.

Q Where did Joe Riley live when the war come up?

A He lived away down below.

Q Well about how far from you? A I guess they called it; they called it about, well they called it 70 miles.

Q Well where, from what direction and how far from Tahlequah did Joe Riley live? A I think it was southwest from tahlequah, inda southwest as near as I can remember.

Q Are you positive as to what Joe's owners name was?

A They calles him Riley, that is all I know about it.

Q When was the last time you were down there? A Just a little before the war.

Q How long before the war? A Well about, not quite a year.

Q Where did you see this Joe Riley, the father of this applicant, last before the war? A There is where I saw him; where where I am telling you now.

Q At Riley's? A yes, sir, after that they moved I suppose up here on Verdigris; where is where old man Riley died.

Q On the Verdigris? A Yes, sir.

Q Did he move up therebefore the war? A yes, sir, I suppose he did; he had a ranch there.

Q Well were you present when Joe Riley was before the Kern-Clifton Commission five years ago? A Yes, sir.

Q You were present were you? A Yes, sir, I seed him.

Q Did you hear Joe testify at that time as to his owner was?

A Not at that time.

Q Did ~~you~~ he know who it was? A He must of; the old man was blind you know we had to lead him about here and there and take him by the hand and lead him about.

Q If Joe Riley testified that Stephen Foreman was his owner before the war came up he was mistaken? A He may have; told me he was from where I seed him and I got acquainted with him, he was living with old man Riley.

Q What were you doing down at Riley's? A I was with Aaron Martin, my Master, he was buying up yearlings and one thing and another.

Q What kind of a house did old man Riley live in?

A Double log house.

Q About how far fro town? A I could not tell you jst now far.

Q What kind of a family did Riley have? A They must have been Cherokees.

Q How many children? A Oh, I could not tell you how many, there was young boys there.

Q How long did you stay there? A I never stayed but one or two days.

Q You don't remember about how long before the war that was?

A That was a good while before the war, I was quite a small young fellows.

Q Well, if Joe Riley testified under oath before the Commisaion

that he lived with Stephen Foreman down there during the war and continued to live for wix years after the war at Tahlequah, that is a mistake about it? A I guess, I don't know; I can't tell you anything about that part of it.

Q You don't know about that? A No, sir.

Q Well he could not have been living with Stephen Foreman down at Tahlequah and you see him coming from Kansas at one and the same time, could he? A That way he could not; but here I am telling you the truth, I saw him that winter in '66, he says I am going home; where he come from ~~xx~~ I could not tell you; I saw him there and that is the God's truth.

Q Was he blind then? A No, sir.

Q Have a wagon? A Yes, sir, had an old shackling wagon.

Q Had his wife along with him? A No, sir.

Q Well, who was along with him, this boy? A He had a boy with him, but I could not tell you which one of the boys he had a small boy with him.

Q You could not tell whether it was Fred or Ed? A No, sir, I don't know; I ain't going to tell something I don't know; Ig he is the boy I don't know.

Q You don't know where he was married? A No, sir.

Where were you living when you saw him? A On Lightning Creek; just right across the Creek from me up on top of the hill where I met him coming towards Vinita, Vinita wasn't built then, wasn't started at that time, and there wasn't much of a road, just a path.

Q Yo have got a good memory about dates? A No, I could not tell you anything about the dates.

Q You just met this fellow out in the road A Yes, sir.

Q Just passed and went on? A yes, sir, he never stopped to my knowning, didn't stay no time; I just met him on the road he knowed me, hello my boy, isn't this Jask, and I said this is and he says I am trying to get back to my old home.

Q He didn't come to your house and get something to eat?

A No, sir, he didn't.

Q He j st had an old shackling wagon? A Yes, sir, and some old hourses; they was very poor; if he got there with them I could not tell you.

Q Well, who else was living in that neighborhood at that time?

A All them Wright boys.

Q old man Hayden living there at that tike? A No, sir.

Q Wasn't keeping a store up there? A No, sir.

Q Can't you remember anybody else that you met in that year anywhere just passing on the road? A Why there is sevrall of them.

Q Who else did you meet on the road that year?

A I could not tell you the names exactly I met several backwards and forth you know.

Q What year d d the Wallace Court sit and make a roll?

A I could not tell you the date.

Q What year did you marry? A Now, for me to tell you the truth, I could not tell you that; I married up in the states.

Q What year was the Kern-Clifton Court sitting and hearing testimony like it is now? A Well that is out of my raising.

Q You are a little off on dates aren't you Jack? A Not, let me tell you, a man that was raised like I was don't can't tell nothing, Judge, about it; w4 just have to keep it in our head and it slips out of our remembrances.

Q How long have you seen this boy on Big Creek?

A ~~Eighty years~~ It has not been long, about ten or 12 years.

Q Well, you knew he come from Burlington, Kansas, down there?

A No, sir, he may have come from there, I don't know.

Q You never heard him say he come from Peoria? A No, sir.

Q What were you doing when you saw his father?

A I was going home.

Q Well, had you put in a crop that year? A That year following that year, that spring put in a little small patch.

Q yob had a field opened up when you saw him?

A Yes, sir, just a little patch.

Q You had a house built? A Yes, sir, little old log house, wooden chimney.

Q You didn't say nothing about meeting him five years ago when the Kern-Clifton Commission sat did you? A Yes, I did; after that I did; he got to inquiring, Fred, this younger brother, he got to talking about it and I said I know him.

Q Well, before the court? A No, sir, I didn't tell it.

Q They were hunting up witnesses to come in before the Court?

A I don't know, I guess they was.

Q They were hunting witnesses to come up like they are now to prove these facts? A I guess they did.

Q You said you were present when he testified and you never said that he stayed at Stephen Foreman's all during the war and six years afterwards? A Now let me tell you I was on the ground just like I am now.

Q You don't claim to be in the room? A No, sir, I was just there on the ground like I am now.

By Mr. Breckinridge: Were were you living at the time you claim to have met Joseph Riley in 1866? A On Lightning Creek.

Q Where had you been when you met Joseph Riley? A I had been to Lewis Wright's my neighbor's, and I was going back home.

Q What direction did Lewis Wright live from you?

A North, I lived south.

POLLY NIVENS, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows: BY MR. MELLETT:

Q What is your name? A Polly Nivens.

Q How old are you? A 56.

Q Where do you live, Polly? A Fort Gibson.

Q Do you know this applicant, Ed Riley? A Yes, sir.

Q How long have you known him? A Just known him since after peace was made.

Q Now, do you know his father, Joseph Riley? A Yes, sir.

Q When did you know him? A I got acquainted with him after peace was made at Fort Gibson.

Q Now, do you know what year it was you saw him there?

A Yes, sir, it was just after peace was made when the refugees come in there, I was working there.

Q The first year after peace was made you saw Joseph Riley there at Fort Gibson? A Yes, sir.

Q Where did he live after that? A After he left Fort Gibson?

Q Yes. A I don't know, sir.

Q How long did he stay around there? A I saw him there about the middle of the summer, he was a preacher and living right up on the hill and preached nearly every night in the summer.

Q Now, do you know anything about him after he left Fort Gibson about where he went to? A He told us at the Church, he stated he was going to leave and some of the members says where are you going Uncle Joe and he said I was going to move on Fourteen Mile creek.

Q How far is Fourteen Mile Creek from Fort Gibson?

A I don't know.

Q You didn't know him after that? A No, sir.

Q Well, did you ever see him any more after that?

Q No, sir, I never seen him any more after he left Fort Gibson.

By W. Hastings: He was living there at that time? A Yes, sir.

Q Living there with his wife? A Yes, sir, there was an old lady with him.

Q What was his wife's name? A I don't know, just called her Mrs. Riley.

Q How many children had he there at that time? A He had two.

Q Did you see this boy? A I saw this boy and a girl.

Q How long did he stay in Fort Gibson? A He stayed until along about the last of the fall.

- Q Two or three months? A Yes, sir, or maybe a little longer.
Q You remember distinctly seeing him there in the summer time?
A Yes, sir.
Q And they stayed from the summer until the fall?
A Fall along the last of the fall.
Q And he and his wife there together? A Yes, sir.
Q And this boy, the applicant? A Yes, sir, that one there.
Q What is her name? A Sarah we called her; I don't know what she is going by now.
Q Was her name Sarah Riley? A Yes, sir.
Q You remember these two children? A Yes, sir, I don't know nothing about the youngest one.
Q Mrs. Nivens, I believe you never did see them after that fall?
A No, sir, I stayed in town and they lived up on the Creek.
Q You lived near Fort Gibson? A Yes, sir, I lived right there close to Fort Gibson all my life.
Q And you have lived there ever since? A Yes, sir.
Q Now, you feel positive that this was the next years you say after peace? A Was the first year after peace, when the refugees was ~~moving~~ refugeeing in, all coming in and he was living on the hill in front of Conong Vann.
Q About how far from Conong Vann? A I don't know, there was a lot of old houses up there.
Q And he had his wife with him and these two children?
A Yes, sir.
Q You remember that? A Yes, sir, I remember that.
Q You know that Ed was one of them? A Yes, sir.
Q And this girl was the other? A Yes, sir and Ed the other.
Q You recognize the applicant as being one of them?
A Yes, sir.
Q You are positive about that? A Yes, sir.
By Com'r Breckinridge: How old were the children at that time?
A I could not tell you; they were good bit children, I don't know the age. I would go to Church and didn't inquire about that.
Q Which seemed to be the older the boy or girl? A I don't know, the girl was the biggest.
Q Was she a nearly grown girl? A She was about that high (indicating.)
Q About ten years old? A I don't know, she may be.
Q The girl was larger than the boy. A Yes, sir.
Q That was the first time you saw Joseph and his wife after the war?
A Yes, sir, saw them at church.
Q There when he and his wife and these two children were together?
A Yes, sir, there may have been more there I didn't see them.

L. D. DANIELS, being sworn by Commissioner C. R. Breckinridge, testified as follows: BY MR. MELLETTTE:

- Q What is your name? A L. D. Daniels, sir.
Q What is your age? A 56.
Q Where do you live? A Claremore is my post office, I live in the Cherokee Nation.
Q Are you a Freedman citizen of the Cherokee Nation? A Yes, sir.
Q On the roll of 1880? A Yes, sir, on all of them.
Q Do you know this applicant here? A Yes, sir.
Q Did you know his father, Joseph Riley? A Yes, sir, I did.
Q Where did you know him? A I got acquainted with him at Fort Gibson, sir.
Q Was that before the war or after the war? A That was about December, 1866.
Q You saw him there at Fort Gibson? A I seen him at Gibson there.
Q How long did he live at Fort Gibson? A He was not living there at that time; he told me that he come from Fourteen Mile Creek, said he had stopped up there.
Q Well, now, how much did you continue to see him after that?

A Well he stopped there with Ervin Vann, I seen him once or twice, maybe two or three times.

Q What became of him after that? A I don't know, unless he went up to Fourteen Mile Cree where he told me he was living at.

Q Did you ever know him after that? A Yes, sir.

Q Where? A I met him on the Verdigris river at John Riley's.

Q When was that? A That was in, I believe it was in '83.

Q Was John Riley a relative of his? A No, sir, some of his old former owner's, Joh Riley told me, I stopped there to dinner and John Riley told me here is the old man that owns him.

Q John Riley was a Cherokee Indian? A Yes, sir.

Q Where is he now? A He is dead.

Q You didn't know this Joseph Riley before the war?

A No, sir.

By Mr. Hastings: Mr. Daniels, what was Joseph Riley doing down yo Fort Gibson when you knew him after the war? A He was there to Ervin Vann's when I seen him.

Q What wa his occupation? A He preached once or twice to the Church house there.

Q That was in December was it? A That was in the latter part of November or December, it was pretty cold.

Q Did you see his family? A No, sir.

Q Did you know his wife? A No, sir, I didn't get acquainted with her.

Q You don't know who he married? A No, I don't know who he married at that time.

Q Did you see the applicant at that time? A No, I never seen him at that time, and I never got acquainted with them until I met Joe Riley again over there about six years ago when he brought his children up and showsme his family.

Q About six years ago you saw him? A Yes, I think it was in '96.

Q You neve were at Joe Riley's place until six years ago?

A Yes, sir.

Q That is all? A Yes, sir.

Q polly Nivens living down there about that time was she?

A yes, sir, living right in Fort Gibw on.

Q You remember seeing her about that time? A Polly I seen her every day I reckon.

ED RILEY, the applicant, recalled: By Mr. Mellette:

Q What was your half brother's name you give in a while ago?

A Thomas Harlin.

Q How old is he? A Died, I don't know, he is a grey headed man I don't know his age; he id an old man.

Q Was he your father's child? A That is what was said, father always said he was his son.

Q Well, where has he lived since you remember? A Who is that?

Q Thomas Harlin? A Down on Fourteen Mile Creek.

Q Did he live with you? A No, sir.

Q At no tie? A No, sir.

Q How long did you live on Fourteen Mile Creek? A I guess all of about 20 years.

Q About 20 years down on Fourt Mille Creek? A Yes, sir.

Q Well, where did this Thomas Harlin live the first you knew of him? A He lived over on the hill, a little south of Father's

Mr. Mellette: I would like to see if Thomas Harlin is on the 1880 roll, Mr. Commissioner.

Mr. Hastings: He is not in the case and he does not claim through him.

Q Now, Boss Harlin you say is a son of Thomas harlin?

A No, sir, he is a brother of another side I think; brother on their mother's side.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of Thomas Harlin found thereon, page 768, #1020, 36 years of age, Tahlequah district; page 768, #1022, John Harlin, Tahlequah District 12 years of age.

By Com'r Breckinridge: Is that Tom Harlin's oldest child (meaning the above enrollment of John Harlin.)? A I don't know whether he is the oldest one of his children.

DARCUS RILEY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give your name? A Darcus Riley.

By Mr. Mellette: How old are you? A I am 78 years old.

Q Are you a Freedman citizen of the Cherokee Nation? A I am.

Q On the 1880 roll? A Yes, sir.

Q Do you know Joseph Riley, the father of this applicant?

A I have knowed him all my days, I tell you the truth I knowed him all my days.

Q To whom did he belong? A Old John Riley.

Q Where? A Close to Park Hill.

Q Was Riley a Cherokee? A Indian.

Q Where did you live at that time? A At that time I lived in Going Snake where I knowed him, in Going Snake district.

Q Did you marry Joseph Riley at one time? A Yes, sir, I lived with him since the war, since my main husband died, Harry Buffington; well this present husband of course he was my husband while I lived with him, he is dead.

Q Can you think how long after the war it was you married Joseph Riley? A No, sir, I could not wished I could.

Q Where did you marry him? A Married him on Fourteen Mile Creek.

Q How long did you live with him? A I lived with him five or six years.

Q Did you separate? A No, sir, we didn't separate, but he got sick and blind and I was too old to take care of him and I went to my children and he went to his.

Q His children came after him and you went to your children?

A Yes, sir.

By Mr. Hastings: Auntie, the first time you ever saw him you fell in love with him? A I loved him or I would not have married him.

Q That is a case of love at first sight was it? (No response.)

Q You never had seen him until that time, until you went in love with him? A I told you I seed him all my days, I knowed him when he was a slave of old John Riley.

Q You are positive of that? A Yes, sir.

Q To whom did you belong before the war? A I never did belong to but one man I belonged to old man Bushyhead and I bought myself from them.

Q you lived up about Cincinnatti, Arkansas? A Yes, sir, lived up in in Going Snake.

Q And this man Riley lived about 35 or 40 miles? A Yes, sir, that was nothing for me.

Q Well, when were you down to Tahlequah first; when was the first time you ever saw the town? A Eh, I have been to see Tahlequah that I can't tell you how often I have been there.

Q Well, before the war? A That is what I am telling you.

Q You were there before the war? A yes, sir, been to the Seminary to see my young Mistress that was going to school.

Q Where was the Seminary? A you know where it was, out by Park Hill.

Q How far did Riley live from the Seminary? A Riley lived a little while from Stephen Foreman.

Q You go by the name of Darcus Buffington don't you?

A Yes, sir, that is my name, I married a man by the name.

Q You were married to Joe Riley? A Yes, sir.

Q Lawfully? A Yes, sir, by a preacher.
Q Aunt, you draw a pension? A Yes, sir.
Q You are drawing it as a widow of a Buffington?
A No, sir, I ain't drawing his pension because I married and after that I was the nurse for the soldiers, that is what I am getting my pension for.
Q As a nurse? A yes, sir, as a nurse for the hospital.
Q And not as a widow of your husband Buffington?
A No, sir, I could not get that.
Q Well, how long was it before you saw him after the war until you married him? A That here Joe Riley, he went down there before they made this here treaty.
Q You saw him down there? A Yes, sir.
Q Before the treaty was made? A yes, sir, he come down; he heard they sent after all the negroes to come in and be in time and he was in time for he met Mr. Buffington and Mr. Buffington told me well My Uncle Joe you are in time and se come back and tend to your business.
Q Well, how do you know Mr. Buffington met him?
A I have no right to believe my husband lied.
Q You didn't know that Mr. Buffington was in California at that time? A No, sir, I know when he come from Tahlequah after his brother was killed he came right home.
Q Well, now, I am trying to get at about how many years before you married Joe Riley was it you saw him there? A It was a good while because my husband was living at that time.
Q Well, was this boy with him when you saw him first.
Q No, sir; he never brought him down until after my husband died. He had been dead about eight or ten years.
Q And he never brought this boy back until then? A No, sir, they brought him back before that and had him staying at Joe Roger's and had him there going to school.
Q Well, about how big a bay was he when he first come down there?
A I can't tell that, he was up about so (Indicating.)
Q Did he have brothers and sisters at that time? A Yes, sir; they are all older than he is.
Q He is the baby? A Yes, sir.
Q How long did he stay down there on Fourteen Mile Creek?
A I say I can't tell you.
Q Did he stay ther three years? A Yes, sir, longer.
Q Six, five or six? A yes, sir.
Q Well how long after they have the Cholera down there before you saw Joe Riley? A It was pretty much at the time.
Q About the time they had the cholera down there?
A yes, sir, I know they had the cholera down there; they had the cholera down there when we was in camp and afterwards had the cholera down there.
Q Where did his first wife die? A I can't tell you that neither.
Q Did you ever see his first wife? A I was just as well acquainted with her as I was this boy.
Q What was her name? A Her name was Mary Paris.
Q You d n't know where she died? A No, sir, I don't.
Q Was any of these children by his first wife born down there on Fourteen Mile Creek? A No, sir, I don't think they were.
Q They were all born before he came down there? A Yes, sir.
Q How long did Joe Riley sta around there when you first saw him?
A Well he had a son down there was Tom Harlin.
Q And the rest of the family wasn't down there?
A I reckon they was.
Q Were they staying with Tom too? A Yes, all was staying with Tom.
Q That was after the boy was up some size? A He was a small boy.
Q Five or six years of age? A Yes, sir.
Q Was that the first time you ever saw him when he was about with them? A Yes, sir, the first time I saw him.

Q Was that the first time you saw Joe Riley when this boy was staying with Tom Harlin? A Genthelam I told you I knowed him all my days.

Q I mean after the war? A Yes, sir, that is the first time.

Q That is the first time you saw Joe Riley after the war?

A Yes, sir.

Q Was when this boy was staying with Tom Harlin? A Yes, sir.

Q You are positive about that? A I am positive about everything I tell you.

Q Where were his brothers staying at that time?

A Up about Vinita somewhere about there.

Q That is when you first saw Joe Riley after the war, not before the war, his three children were up there about Vinita?

Q yes, sir; when I first saw Joe Riley after the war this boy was down on Fourteen Mile Creek.

Q That is where this boy was then? A Yes sir, he was going ~~xx~~ to scholl there.

Q That was near your home was it? A Yes, sir, it was.

Q You are positive about that are you? A I am positive about everything I tell you.

Q And this boy was five or six years of age? A He must have been that, he was small.

By Mr. Mellette: Which is the ol er child? A Of these children?

Q Yes? A Sarah is the oldest one.

COM'R BRECKINRIDGE: The applicant applies for the enrollment of hi self, his wife and four children. The applicant is identified on the Kern-Clifton but not upon the roll of 1880 or 1896. He claims to have lived in the Cherokee Nation all his life. Neither his father or mother are identified on the 1880 roll, the former being dead a little over a year, and the latter some 12 years. He states that both were slaves in the Cherokee Nation at the time of the Civil War and that seems to be reasonably established. The time of their return, however, is not so well established. The testimony is conflicting, but the weight of it indicates that they were not identified on the Cherokee Nation until some year after the perior required in the treaty of 1866. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of his testimony indicated. The applicant's wife is a state woman. He states that he was never married previous to his marriage to her, and he states that she was never previously to her marriage to him. It is established that they were married some 11 years ago, and that they have lived together ever since as husband and wife. She will now be listed for enrollment as a Cherokee Freedman by intermarriage on a doubtful card and it will be necessary for her in person to give testimony in regard to any previous marriage that she may have had.

As for the four children, the oldest one, Mat Riley, is identified upon the Kern Clifton roll. This child is now living and it will be listed for enrollment as a Cherokee Freedman on a doubtful card to await the determination of the status of his father, and it may be to await evidence as to whether his mother was ever previously married, though little doubt is entertained at this time that she was married. The remaining three children are not upon any roll. They will be listed for enrollment at this time as Cherokee Freedmen on a doubtful card and the applicant is desired to supply the Commission with certificates of their birth. They are all said to be living at this time. The final decision of the Commission will be made known to the applicant at his post office in regard to all these applications.

RECEIVED
JUN 25 1901
COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed.) J. O. Rosson.

Subscribed and sworn to before me this 25th day of June, 1901.

(Signed) T. B. Needles.
Commissioner.

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J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subscribed and sworn to before me this 16th of August, 1901.

T. B. Needles

Commissioner.

FD 707

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with
in notice on

by delivering a true copy thereof on the
day of .. A. D. 1901

Given under my hand this
day .. A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of .., 1901.

Attorney for applicant.

UNITED STATES OF AMERICA, |
INDIAN TERRITORY, | S. S.
NORTHERN DISTRICT. |

I do solemnly swear that I delivered a
true copy of the within notice to

on the .. day of .. A. D. 1901

Subscribed and sworn to before me
this .. day of .. A. D. 1901.

NOTICE!

IN THE MATTER OF The application of Sarah Flynn
for enrollment as a Cherokee Freedman:

Case No. F. D. 707

To Sarah Flynn or Hellette & Smith her Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of **Fort Gibson, I. T.** Indian Territory, on the following dates, to-wit: Sept. 19th 10 O'CLOCK A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP day of 1901.

B. Bell
N. W. Hastings
J. S. Darmon
Attorneys for the Cherokee Nation.

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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File with C. F. D-707, Sarah Flynn, et al.

SUPPLEMENTAL: C. F. D-696, Ed Riley.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 25, 1901.

In the matter of the application of Ed Riley for enrollment
as a Cherokee Freedman.

TESTIMONY ON THE PART OF THE CHEROKEE NATION.

Appearances:

Mr. Smith, of Mellette & Smith, attorneys for applicant;
W.W. Hastings, Esq., of attorneys for the Cherokee Nation.

(Witnesses placed under rule.)

EMILY HUMPHRIES, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

- Q What is your name? A Emily Humphries.
- Q Aunty, where were you living before the war? A Out here about 6 miles from Fort Gibson, on the place that Jack Gott lives on now.
- Q East of Fort Gibson? A Yes sir.
- Q Where did you go during the war? A I come here to Fort Gibson.
- Q Where did you go just after the war? A I went back on the what's called the Four Mile Branch.
- Q Is that east of here, out towards Tahlequah? A Yes sir.
- Q How long did you live out in that country? Neighborhood; the first few years after the war? A I lived there three years.
- Q Then where did you go, auntie? A I moved from there to Spring Creek.
- Q How long did you live at Spring Creek? A I lived there 8 years.
- Q Then where did you go, auntie? A I came right back to Four Mile Branch, where Joe Ross lives.
- Q And you lived there a number of years did you? A I lived there some 4 or 5 years.
- Q Did you know a colored man by the name of Joe Riley? A Yes sir, I knew him.
- Q Did you know him before the war? A Yes sir.
- Q Where did he live before the war? A He lived at the same place I told you I lived, where Jack Gott lives, and his owners sold him to Steven Foreman's wife, daughter of old man Riley's, and he lived with Foreman until the war got up.
- Q You knew Joe Riley awhile before the war? A I did; we lived together as fellow servants.
- Q I believe you said you were in Fort Gibson during the war? A I stayed here during the war in Fort Gibson.
- Q And then went out on Four Mile Creek and stayed three years after the war? A Yes sir, Four Mile Branch. The cholera got up and caused us to leave Fort Gibson.
- Q You went there when the cholera broke out here? A Yes sir.
- Q Was that after the war or during the war? A Just after the war.
- Q Now when was the first time you saw Joe Riley down here after the war? A First time I remember seeing Joe Riley was after I come from the Spring Creek.
- Q About how many years was that after the war, your best judgment? A I guess it was about 8 or 9 years as near as I can guess.
- Q Where did you see Joe the first time after the war? A He come to my house, I had then moved to Tahlequah; he come to my house and stayed with me several weeks.
- Q Did he bring any children there? A He brought his youngest child with him by the name of Fred.
- Q How old was Fred at that time? A I don't suppose he was more than about 10 or 12 years old, just a boy.

Q You know whether Ted was born before the war or after the war?
A He must have been born after the war; he wasn't born before the war; born after the war.

Q Did he have just the one child with him? A He only had one with him but he said he had others, but I didn't see them.

Q You know where he came from when he came to your house? A I guess he came from Kansas, that's where he left his family.

Q How do you know about that? A He said he left his family up there.
MR. SMITH: I object to that, because it is hearsay.

Q He said his family was up in Kansas? A He left his family up there.

Q Did this man ever lived with Dorcas Buffington? A Yes sir, he married her.

Q Was that before or after you saw him at Tahlequah? A He married her after he come to my house; stayed around me sometime, and after that he married Dorcas Buffington and moved to 14 Mile Creek and lived with her and he went blind and his children took him home and took care of him until he died.

Q That was the first time you ever saw him after the war when he came to your house at Tahlequah? A Yes sir.

Q You lived here until the cholera broke out? A Yes sir.

Q You lived over here on Four Mile Branch and lived there about three years? A Yes sir.

Q You went then to Spring Creek and lived there about- and then where did you go? A Back to Four Mile Branch.

Q How long did you stay at Four Mile Branch then before you went to Tahlequah? A I don't remember; I stayed sometime and then I moved to Tahlequah.

Q You never saw Joe Riley while you were here at Fort Gibson?

A No sir.

Q Did you see him while you were out here on Four Mile Branch?

A Yessir.

Q You had been fellow servants with him before the war? A Yes sir.

BY MR. SMITH:

Q What did you say your name was? A Emily Humphries.

Q How far is Spring Creek from here? A I don't know, it is called 18 miles from Tahlequah.

Q How far is Spring Creek from 14 Mile Creek? A I don't know.

Q Aint that it, 14 Mile Creek? A You are talking about the 4 Mile Branch I guess.

Q Now the 14 Mile Creek is one thing and the 4 Mile Branch is another? A 14 mile Creek is between Tahlequah and where I live at Spring Creek, 14 Mile Creek is between the two places; I don't suppose it is more than about-

Q From here I am talking about? A Oh from here, I guess it is no more than about 10 or 12 miles from here to 14 Mile Creek; I never traveled the road, I don't know the road.

Q Then when you moved from here out to Four Mile Branch how far would you pass from 14 Mile Creek? A I don't know, 5 or 6 miles I guess, about 8 miles, that's what it is.

Q All you know about this matter is that you didn't see Joe Riley yourself until several years after the war? A I never saw him until after the war.

COLUMBUS LASLEY, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A Columbus Lasley.

Q How old are you? A 53.

Q Where did you live during the war? A Around here at Fort Gibson.

Q Where did you live just after the war? A I lived in Tahlequah District, just after the war, out here on 4 Mile Branch.

Ed Riley (sup'1) 3

Q How long did you live out in there before you moved? A I lived there until '74.

Q Did you know Aunt Dorcas Buffington? A Yes sir.

Q Did you ever know an old man by the name of Joe Riley, an old man, preacher? A Yes sir.

Q Did you know him before the war? A No sir.

Q How long did you stay in Fort Gibson before you went out to 4 Mile Branch? A I come here in Fort Gibson along in '63 I believe, and moved out there in '67.

Q When was the first time you ever saw Joe Riley after the war?

A Along about '80 or '81.

Q Where did he live? A He was just stopping with his son, Tom Harlin when I first knew him on 14 Mile Creek.

Q Did he ever live with Dorcas Buffington or Dorcas Riley?

A Yes sir.

Q Was it before or after that time that he lived with her? A After that.

Q About how long did he live with her? A About a year or more, couple of years, something like that.

Q Did any of his children live down there with him? A Not that I know of, only Tom.

Q Tom is living up there; he goes by the name of Tom Harlin yet?

A Yes sir; he lived with Tom, best of my recollection.

BY MR. SMITH:

Q You are just testifying to the best of your recollection now are you, Columbus? A First time I saw him along about '80 or '81.

Q Were you ever at his son Thomas? A Yes sir.

Q When were you at Thomas? A I have been there several times.

Q Were you there during '80 and '81 at Thomas' he set? A I don't know just whether I was there then or not.

Q Just whether Joe Riley had a family anywhere in the Cherokee Nation you don't know? A No sir.

W.H. MARKHAM, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A W.H. Markham.

Q Where do you live? A 6 miles east of Fort Gibson, Illinois District.

Q Did you ever live up near Bluejacket? A Yes sir.

Q When did you live there? A Lived there 20 years ago and lived there about 11 years ago.

Q Did you ever know a colored man who claimed to live up there by the name of Joe Riley? A Yes sir.

Q Old man or a young man? A An old man.

Q You know any of his children? A No sir.

Q Did he have any children? A Said to have, that's all I know about that.

Q Have a wife? A Yes sir.

Q Which came to the neighborhood of Bluejacket first, you or him? A I came there first, I lived 6 miles west of Bluejacket on Big Cabin Creek, and when I saw him he lived on the Timbered Hill, what they called Timbered Hill, about half-way between Bluejacket and Big Cabin Creek.

Q Half way between town and the place you lived? A Yes sir, in the neighborhood there.

Q You know where he came from when he came there? A I know what he said.

MR. SMITH: Q What who said? A Joe Riley.

MR. SMITH: I object to what Joe Riley said, because he is not a party to this proceeding.

COM'R NEEDLES: He is the party through whom these people claim.

A He said they moved from Emporia down in there.

Q Emporia, Kansas? A Yes sir.

Q He told you that at the time? A Yes sir.

Q About how long after you came to that country did they move in there? A I am not real certain how long, I went there 20 years ago, and it was a year or two later, I don't know exactly; they moved in and before I knew anything about it they moved away again.

Q You had this talk with him while he lived there? A Yes sir.

Q How long did they live around there? A I am not able to tell you, it was sometime though, quite a while.

Q Was it two or three or four or five years, or something like that give some estimate? A It wouldn't be 5.

Q Less than 5 then? A Yes sir, I presume it was less than 2.

Q That's your best judgment is it? A Yes sir.

BY MR. SMITH:

Q You don't know anything about where he was living 25 years ago? A No sir.

Q Nor 30 years ago? A No sir.

Q Nor 35 years ago? A No sir.

Q You don't know where he was in '66? A No sir.

Q Or '67? A I wasn't in this country, sir.

Q He didn't undertake to tell you how long, if he came from Emporia, Kansas, he had lived at Emporia, Kansas, before you saw him? A No sir, I don't recollect just all the conversation.

Q He might have been living at Emporia 6 months before he came down there, or a year?

MR. HASTINGS: Oh that's improper. Come now the Representatives of the Cherokee Nation and protest against any such cross examination, because it does not bring out anything, nor does it seek to bring out anything at all, or attempt to bring out anything on cross-examination.

MR. SMITH: I have the right to test him to test his right of conversation.

GOVERNOR NEEDLES: Go on and test him.

Q All he told you in that conversation was that he came from Emporia, Kansas? A That's the understanding I had.

Q He didn't undertake to tell you how long he had lived in Kansas, or when he went there? A No sir.

EMILY HUMPHRIES, re-called and further examined, testified
BY MR. HASTINGS:

Q How long did he live with Aunt Dorcas as husband and wife? A I don't really know, Mr. Hastings; something near 2 years I think though.

BY MR. SMITH:

Q Where were they living when they lived together? A They were living on 14 Mile Creek.

Q Did you see them? A I saw them frequently in passing, but I never was at their house.

Q You don't really know how long they lived together? A I think they lived there 2 years; the old man went blind.

Q You know what became of him when he went blind? A His children took him home and took care of him until he died.

Q Where did he die? A Somewhere up in Cooweescoowee, I don't know exactly where, but it was where his children was living.

Q Was his children living in Cooweescoowee? A Yes sir.

Q And they took him from down here and took him up here? A Took him from his home down here with Dorcas.

BY MR. HASTINGS:

Q You don't know where they took him? A No sir.

Q You wasn't up there? A No sir.

Q You didn't see him after that? A No sir.

Q All you know about it is hearsay? A I heard they come after him.

BY MR. SMITH:

Ed Riley (sup'1) 5

Q When Joe Riley left there did he make any statement as to where he was going? When he went blind? A No sir, I never saw him, I never saw him after he got blind.

Q You didn't hear him say where he was going to? A No sir.

BY MR. JASTINGS:

I want this applied in D-707, D-708 and D-709, Sarah Flynn, Richard Riley and Fred Riley.

EMILY HUGHRIES, re-called and further examined, testified:

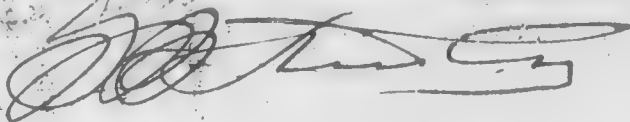
BY MR. JASTINGS:

Q What was that child's name he brought to your house? A He called him Eddie.

Q About how old was he? A He was about 11 or 12 years old I guess.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this November 7th, 1901.



Commissioner.

File with case of Sarah Flynn, et al., C.F.-D.#707.

Supl.C.F.-D.#496.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 11th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ED
RILEY, ET AL., as Cherokee Freedmen, introduced on part of Cherokee
Nation:

APPEARANCES:

Mr. Mellette, of Counsel for applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

TOM HARLIN, being duly sworn by Commissioner Needles,
testified as follows on part of Cherokee Nation:

- MR. HASTINGS: What is your name? A Tom Harlin.
- Q What is your age, Mr. Harlin? A I am about 57 years old.
- Q What is your post office? A Cheuteau.
- Q Mr. Harlin, where did you live after the war, just directly
after the war next year, when the war closed? A I lived at Fort
Gibson a while, made a crop of corn there and then I moved on Four-
teen Mile Creek and been living there ever since until about two
years ago.
- Q Do you know what year you moved on Fourteen Mile Creek? A I
moved in the fall of '88.
- Q About how far from Fort Gibson was that? A That one was ten
mile.
- Q Believe you stated you lived there until two years ago?
- A Yes, sir.
- Q When you lived there what was your trading point? A Fort
Gibson.
- Q Do you know a colored man by the name of Joe Riley? A Yes.
- Q I have reference, Tom, to the Joe Riley that afterwards married
Aunt Emily Humphreys, or lived with her? A I don't know the man
that married Emily Humphreys.
- Q I mean Darkus Buffington? A I know him.
- Q When did you first see him after the war? A I think I told you
somewhere about '80.
- Q Is that your best judgment? A I thought it was about that, I
think that were about it.
- Q How long did you see him at that time? A He come to my house
there.
- Q How long did he stay there? A I don't know exactly; he stayed
there, he stayed there a while.
- Q Well, about how long, your best judgment? A I guess he must
have stayed there two or three weeks.
- Q Was any one with him at that time? A No, he just come there by
himself.
- Q He had no members of his family with him? A No, sir.
- Q When did you next see him? A Well, I don't know the date when
I seen him, he come to my house again and have a boy with him.
- Q What boy did he bring with him? A Fred.
- Q About how old was Fred at that time? A Well, I don't know; he
was pretty good sized boy, about 14 or 15.
- Q Well, you best judgment as to his age? A Well, I don't know,
I could not tell you how old he was.
- Q Was he grown? A No, Fred was just a boy then.
- Q Well, about, your best judgment as to how old he was; I know you
don't know the exact age he looked to be? A Well, I guess he was
about 12 or 14 years old.
- Q Well, how long did he stay at your house that time? A He stay-
ed there a good while and married Darkus Buffington after that.

Q Well, about how long ago was that that he was there a second time after he married Darkus Buffington? A Well I guess it has been since he married her, I could not exactly tell, it may have been eight or nine years.

Q How long did he live around there then? A He lived there until him and her parted.

Q Well, about how many years? A They lived together five or six years, I think it was.

Q He went blind then didn't he? A Yes, sir, and she left him.

Q Well, where was Fred during that time? A I think Fred was staying, rented a place over in the Creek Nation about Muskogee.

Q Did you ever see any of the rest of his children over there on Fourteen Mile Creek? A Yes, I think I seen a daughter there.

Q What? A I saw his daughter Sarah come there.

Q Well, when did she come? A I don't know exactly when she come.

Q Was it after Joe come or before that? A She come there after the oldman was married to Darkus Buffinton.

Q Did any of the rest of the children come over into that neighborhood that you know of? (No response/)

Q Did you ever see any of the rest of them over there? A I don't recollect.

Q Did you ever see Ed over there? A I told you Ed come there.

Q I thought you said it was Fred? (No response.)

Q Well, when did Ed come? A I thought I told you he come there after they married, some four years, I thought I told you that.

Q Ed come after he married Darkus Buffington? A (No response)

Q Well, how long did Ed stay there? A I don't know, I can't recollect much now, I am getting old.

Q Did Ed ever live with you? A He has been to my house, he never lived with me, he lived with me a short time up there.

Q I mean how long did he ever stay at your house? A He stayed there a little while.

Q Well, two or three weeks or longer or shorter? (No response.)

Q Your best judgment, Tom, as to the length of time he stayed around your place? A He was passing there and come and stayed all night with me sometimes.

Q He 1, he never lived there then? A No, sir.

Q Now I believe you stated that about the first time you saw Joe Riley after the war your best judgment was about eighty? A I told you the last time colored people drawed with the Cherokees.

Q Last time colored people drawed with the Cherokees? A Yes, sir.

Q Now, what kin is this Joe Riley to you? A He said I was his son.

Q This Ed Riley then would be your brother, half brother? A Yes, sir, be what he would.

MR. BELLETT: Well, Tom, you don't remember very certainly anything about this man, do you? A Which man?

Q Joe Riley. A Yes, I remember him when I see him.

Q Now, how long has it been since 1880? A It has been about 21 or 2 years, in my judgment.

Q You said that you saw Joseph Riley the first time the last time the colored people draw with the Cherokees? A Yes.

Q Well, that was about 1875 wasn't it? A I don't know, I can't read and write.

Q Well, you didn't mean to say then that you saw Joe Riley in 1880, then did you? A I told you the last time that I drawed with the Cherokees.

Q You don't know when that was do you? A No, sir.

Q You don't know whether Joe Riley was in Fort Gibson in '66 or not, do you? A No, sir.

Q You don't know where he was in '70, do you? A I don't know when that is.

Q What? A I don't know when '70 is, I ain't educated.

- Q How long is '70 after '36? A I don't know, sir.
- Q Can't tell? A No, I ain't educated, if I was educated li ke you I could tell.
- Q This man, Joe Riley, come then up, could have been up around in that country without you seeing him? A Yes, sir, I wasn't all over the country then, I lived there on Fourteen Mile Creek until I moved to Brushy.
- Q You can't say that he was not in this country in 1866 can you?
- A No, sir, I can't say that, I am saying what I know.
- Q You saw him on Fourteen Mile Creek about the time the colored people drew the last time with the Cherokees? A Yes, sir
- MR. HASTINGS: You are said to be his son? A That is what he told me.
- Q You recognize him as your father? A Yes, I call him father.
- MR. BELLETT: Did you know anything about him until you saw him there on Fourteen Mile Creek? A I saw him before the war.
- Q Did you recognize him? A He said I was his son.
- Q Did you recognize him when you saw him on Fourteen Mile Creek?
- A He was the same man.
- Q How did he happen to find you on Fourteen Mile Creek?
- A Just like anybody else, inquired and come to my house.
- Q And he just found you there? A Yes, he found me there on Fourteen Mile Creek.
- Q How many years did he live there? A I don't know, now, I done told you I can't recollect. You want me to tell a lie and I ain't going to tell it.
- Q You are not going to say how long he lived there? A No, sir, I told you two or three times.
- AUSTIN W. FOREMAN, being duly sworn by Commissioner Needles, testified as follows on part of Cherokee Nation:
- MR. HASTINGS: What is your name? A Austin W. Foreman.
- Q Where do you live, Mr. Foreman? A Vinita, I. T.
- Q You are a Physician, aren't you? A Yes, sir.
- Q What is your age? A 46, born in '35 august.
- Q Did you know a colored man before the war by the name of Joseph Riley? A Yes, sir.
- Q Well, where did you know him? A I knew him at my home at Park Hill, five miles south of Tahlequah.
- Q Well, whom did he belong to when the war came up? A He belonged to my father.
- Q Who had owned him before your father had? A I don't know.
- Q Well, it is the understanding he belonged to some of the Rileys?
- A Some of the Rileys.
- Q Well, do you know a son of his by the name of Ed Riley?
- A Well, no and yes too; there was a young man came to me and told me his name was Ed Riley and was son of Joe Riley, that has been a few years ago.
- Q Well, where did he live at that time? A I ~~know~~ could not answer that question.
- Q Where did he say he lived? A I got that impressions though that he lived out west here somewhere, that was just a few years ago, three or four years ago perhaps.
- Q Have you ever seen Joe Riley since the war? A I have.
- Q Where did you see him? A I saw him in Vinita, this place.
- Q Is this the same Joe Riley you are speaking about? A Yes, sir, same Joe Riley.
- Q Well, about how long ago? A Well, it has been about 17 years ago.
- Q Did you have any conversation with him at that time? A I did.
- Q What did he say, I mean with reference to where he lived and his return.

Mr. Mellette: I object to the testimony upon the ground that the conversation was not with the applicant and it does not bind the application.

Com'r Needles: The objection will be noted.

A He was from Kansas and had come down to live in this country.

Q Well, did he say where he actually lived at that time? A He was putting up and stopping and building up here at Timbered Hill.

Q Where is Timbered Hill from here? A Something like 5 or 8 or 10 miles from here.

Q How far from Bluejacket? A I suppose three or four miles.

Q Did he say where he was from in Kansas? A He might have but I don't remember the town, I remember the State distinctly though.

Q Did he say how long he had been from Kansas? A Had just come down, the impression he gave me, he just came down and was building a house up on Timbered Hill.

Q Have any family with him? A Said his family was with him.

Q Well, did you see Joe after that? A Several times after that, yes, sir.

Q You afterwards saw a boy by the name of Ed? A I few years ago.

Q Claimed that Joe Riley was his father? A Yes, sir.

Q You know what finally became of this Joe Riley you speak of?

A Why I think they went back to Kansas; the talk with me at that time was he was talking about selling later on, selling his improvements.

Q Do you know whether he is alive now or not? A I heard he was dead.

Q Do you know whether his eye sight was ever impaired or not?

A I heard

Mr. Mellette: Now, please Doctor, don't talk as to what you heard.

Q You never saw him after he went blind? A No, sir.

Q Did you recognize him when you saw him after the war? A Yes, sir.

Q Talked with him about old times? A Yes, sir.

Q Asked him about his whereabouts? A Yes, sir.

MR. MELLETTE: You don't know where he was in 1866 and during that time on up to the time you saw him? A Not in '66.

Q Well, you don't know where he was in '70, do you? A Not in '70.

Q According to your testimony you must have seen him about 1874, 17 years ago? A Well, that is the first time since '62; I first saw him in '62 and I next saw him 17 years ago.

Q Now, you have given your impression as to what he said about where he was from at that time, you say your impression is that he was from Kansas? A He told me that, no impression about that.

Q He didn't go on and explain how long he had been there? A No, sir, not the number of years.

Q Well, isn't it a fact he died here in this country there?

You talked here a while ago and said what you heard; you said what you heard there, said your impression a while ago? A I understand he died in this country.

Q In this country? A No, I don't know where he died; take that part back.

Q You don't intend to say as a fact he went back to Kansas?

A No, sir. I don't know where he went but I haven't seen him since.

MR. HASTINGS: Where was John Riley living with reference to your father before the war? A Well, the only John Riley I know was my uncle.

Q Where did he live? A He lived down there about the bayou, between Fort Gibson and Tahlequah, between Fort Gibson and Park Hill.

Q How far from your father? A The bayou is about 12 miles I think.

MR. MELLETTE: Doctor, your father a Cherokee, was he?

A Yes, sir.

Q Citizen of the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Doctor, do you know how old this Ed Riley was when you saw his father that time? A I do not.
Q You don't know whether he was a man grown or minor? A I do not.

GRANVILLE CRAIG, being duly sworn by Commissioner Needles, testified as follows: On part of Cherokee Nation:

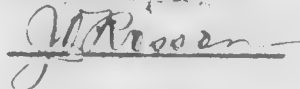
MR. HASTINGS: What is your name? A Granville Craig.
Q You are a citizen of the Cherokee Nation? A Yes, sir.
Q By adoption or blood? A Blood.
Q Where do you live, Mr. Craig? A I live about 12 miles north of here on Big Cabin.
Q How far from Bluejacket? A Five miles west.
Q Well, how far from a timbered hill out there? A About a mile.
Q Well, how long have you lived in the neighborhood of that timbered hill? A Ever since '75.
Q Did you ~~stay~~ settle there in '75? A Yes, sir.
Q Now, how far from Timbered hill? A About a mile.
Q Did you know a colored man up in that country by the name of Joe Riley? A Yes, sir.
Q Was he there when you settled there? A No, sir.
Q Did a Joe Riley ever settle there? A He told me his name was Joe Riley and went by that name.
Q About when did he locate there? A I think it has been probably about 17 years, or 18, somewhere along there, don't remember just the time.
Q How far did he locate from you? A About two miles.
Q In the prairie or timber? A Right in the timber, a spring in the timbered hill.
Q Is that a prairie country or timbered? A Prairie country around the timbered hill.
Q About how much is in that timbered hill? A I expect it has five or six thousand acres.
Q How long did he live there? A I think he lived there about a year, or hardly that long.
Q What became of his improvements? A I bought them, what he had there.
Q You know where he went from there? A No, I don't, he told me he was going back to Kansas, told me he was from Kansas and was going back there, I bought him out and I don't know where he went.
Q Did he have any children? A Yes, I think he had four or five, there was four or five there.
Q Do you know any of those boys names? A No, sir.
Q They only stayed there about a year? A Hardly a year as well as I remember; he made a little improvement there at a spring and I bought what improvements he had there, and he said he was going back to Kansas, and that is the last I knowed of him.
Q Any other colored man by the name of Joe Riley there before that, ever stayed there since you have been there? A No sir; that spring goes by the name of Riley's spring now.
Q Took his name? A Yes, sir.
Q He told you he was from Kansas? A Yes, sir, I bought him out; he said he was going back to where he come from.
Q He left there? A Yes, sir.
Q And that is all you know about it? A Yes, sir.
MR. BELLETT: You don't know this applicant here, Ed Riley?
A No, I don't expect I do.
Q Do you know his brother, Fred Riley? A No.
Q Do you know his sister, Sarah Flynn? A No, sir.
Q Did you know this Joe Riley very well that located up there?
A No, sir, not overly well, seen him several times while he was there.

- Q You don't know where he went, only he moved away? A No, sir.
Q You don't know where he was in '66 or anything like that?
A No, sir.
Q Had never seen him until he came there and never seen him since?
A No, sir, if I did I don't remember it.
Q Have you ever seen any of his children since? A No, not that I know of.
Q You would not know them if you were to see them? A No, sir.
Q You don't know where Joseph Riley died? A No, sir.
MR. HASTINGS: Are you pretty well acquainted in that timbered hill country? A Tolerably well, yes, sir.
Q What do you follow, farmer? A Yes, and stockraising.
Q Well, have you had occasion to travel over that country more or less? A Oh, yes, I have traveled over it for years, right along.
Q Was it thinly or thickly settled when you moved there? A It was thinly settled; no settlement there at all hardly.
Q People lived miles apart? A Yes, sir.

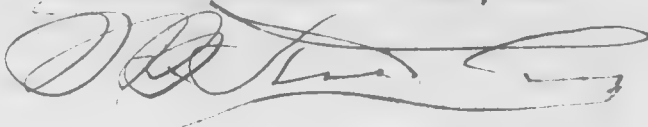
Com'r Needles: This testimony will be filed with the paper in the original case and copies of the same will be made part of the record in Freedmen doubtful cases #707, #708, and #709.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.



Subscribed and sworn to before me this October 18th, 1901.



Commissioner.

F. D. 415.

To be filed with U. S. N. 707, Sarah Vann et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 16, 1902.

In the matter of the application of Josh Vann et al for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-415.

APPEARANCES:

Hallett & Smith for applicants.

W. W. Hastings for Cherokee Nation.

MARGARET PERKINS, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A Margaret Perkins.
Q What is your postoffice, Mrs. Perkins? A Marleton, Kansas.
Q You testified once before in this case? A Yes, sir.
Q Did you know Charley Pee? A Yes, sir.
Q Did you know Susan Pee? A Yes, sir.
Q After Charley Pee's wife died, did you know whether he married again or not? A Well, yes, sir, I know he was living with another woman.
Q Well did you know her name? A Her name was Sukie Vann.
Q Sukie Vann? A Yes, sir, I knew her and her mother and brother.
Q Was that before or after the death of his other wife? A Yes, sir, after the death of Susan, after Susan was dead.
Q When did his first wife die? A She died in '67.
Q '67, and afterwards you knew he was living with Susan Vann, Sukie Vann? A Yes, sir, with Sukie Vann.
Q Did Sukie Vann have any children that you know of? A Yes, sir, she had three, two was with her, and one lived at Posey Gibson's, her eldest.
Q What was his name? A His name was Josh, light colored boy, good big boy.
Q Well now do you know who Josh's father was or said to be? A Yes, sir, said to be, said, yes, sir. His mother's young master, Cull Vann, was said.
Q Claimed his young master, Cull Vann, was his father? A Yes, sir.
Q About what time did they leave that country? A Left anyway '66 or '67.
Q After his marriage to her? A After, yes, sir.
MR. SMITH: Now are you talking about Charley Pee? A Yes, sir, Charley Pee.
Q Well do you know whether or not he was a married man any time after you got acquainted with him when you first knew him? A No, sir, he was a young man for quite a bit.
Q Well did he marry while he was there where you lived? A Yes, sir, he married right there in the neighborhood.
Q Who did he marry? A Married Susan Ross, a girl that lived right there by us, too, on our place.
Q When did she die? A She died '67.
Q What makes you think it was in '67? A From the age of my daughter. Well one thing that makes me think it was, in '66 my husband bought a school quarter of land, and then the Pees leased the land for three years, it was in October, '66, and they leased

it for three years, and during the winter they put up a double log house and moved there in the spring, and the summer of '67 this woman she had the consumption, and she was there off and on till along-oh, several times she was there.

Q When did he marry her? A He married her in about '64, must have married her about '64, they came there in about '62, and must have been about '64 or '5 that he married her.

Q Well who was this woman that you say he lived with after Susan died? A Her name was Sukie Vann, she was the daughter of Lettie Vann, and after she came to that country she lived around there. We lived with a man by the name of Gilbert Vann, and those other two children, the first child that she had, she had three children, the first one the same name as the others, wasn't full brothers you know, she lived with this Gilbert Vann of the same name you know, her mother's name was Lettie Vann, she had a brother by the name of Dick Vann.

Q Now when did you say that these people left there? A They left there either in '68 or '9, I don't know which, for they leased the ground for three years, and they left there - well about - well, after she died, oh then would take this woman occasionally on trips to Ottawa, and he was with his mother, old dame Millie Pee, and Aunt Millie used to want sometimes for him to take her to Ottawa. Well he would drop her out and take this other woman and lived with her. I remember it being reported that he lived with that other woman.

Q Well how long would he be gone when he would go away? A Oh there was a colony of colored folks at Ottawa that they visited back and forth, sometimes stayed longer than other times. He used to go off and leave Susan that way sometimes. His first woman you know he would go up there occasionally and come back.

Q Of course you didn't know where he went? A Oh no I don't know where he went to, except what I heard. Well they said he went, because his mother and his sister, and they would go back and forth, and they would come back, and "Well, we have been gone to Ottawa," they seemed to have business there or visit or something; it wasn't really a visit of course, they couldn't have, but there was some business that they was back and forth with.

Q Well would they sometimes be gone a good while or not? A Oh no, not a good while, never spent - you know he would make several trips in the spring or summer you know, he would never spent very long of the time; why he couldn't make two or three trips I know when he-

Q Well about how long would you say? A Oh I would say he stayed sometimes a few weeks and sometimes a month and a half or two something like that.

Q Well now what makes you think it was in '66 that your husband bought the lease of land? A Well, the reason it was school land sales, and the school land sales was the 15th of October, 1866; and we have the deed of it; I have the numbers of land, '66. I know it for we bought the school quarter, and then that was the date that it was to be sold, the school section.

Q Well do you remember all this time or have you had to go back and look that up? A I didn't have to go back to look it up for I have the deeds yet.

Q The deed? A The deed to the school quarter.

Q Where is that deed? A I haven't it with me.

Q Got the deed at home? A Yes, sir, I have the deed at home.

Q That was the 15th of October, 1868? A '68, October.

Q Well now how long after that was it before it was leased? A Well I presume the first, the same week, that the title was made, for you see the colored men lived around there, and all wanted homes.

Q I don't know anything about it. How long - you say you presume it was in the same week; do you actually know when the lease was made of your own knowledge to be able to swear to it? A Oh, yes, I could swear to it; it was the same week, I could swear to it.

Q Same week? A Same week, because it was talked of before, before he purchased, before my husband purchased the school quarter. He told them after he bought it he would let them build on it and lease it to them you know, and they went to work and put up a couple log house, and they was there that fall and winter getting it put up before they got moved in it.

Q Now who was that who moved in? A Why Charley Pee and Ann Pee, his sister's husband his name was Tom Jackson, Tom Jackson and his wife, Charley Pee and his wife, and Uncle Ben Pee was the ones that worked and built the house and moved there.

Q Now this is the second time you have been here, isn't it? A Yes, sir.

Q Second time you have testified in this case? A Yes, sir, I think I testified, yes, sir, I testified in this case before.

Q Well when you was here before did you know as much about this as you do now? A Yes, sir, I testified just as far as I was called on to and didn't any further.

MR. HASTINGS: You came in here and went back very soon? A Yes, sir, went back the same day.

Q Mr. Davenport examined you before in this matter? A Yes, sir.

J. M. PERKINS, being first duly sworn testified as follows:

MR. HASTINGS: What is your name? A J. M. Perkins.

Q Are you the husband of Mrs. Perkins who just left the stand? A Yes, sir.

Q You have been down here before as a witness in the case of Susan Vann or Susan Pee and her son Josh Vann? A Yes, sir.

Q Did you know Charley Pee? A Yes, sir.

Q Did you know his first wife? A His first wife was Susan Ross.

Q And is she living or dead? A Sir?

Q Is she living or dead? A She died in '67.

Q Did you know whether he lived with any other woman since that time as his wife, Charley Pee? A Well he went to live with Susan Vann.

Q Vann? A Sukie Vann.

Q Sukie Vann? A Yes, sir.

Q Was he living up there at the time? A Yes, sir.

Q Did she have any children that you know of, this Sukie Vann? A She had, as well as I can remember she had three children.

Q Three children? A Yes, sir, three.

Q Did she have any by the name of Josh? A Yes, sir, that was her understanding that was her oldest one, Josh.

Q Did you ever hear of Josh's father, who was reputed to be his father? A Yes, sir.

Q Who? A Culler Vann, that was that I understood, was Cull or Culler Vann, that's what they called him.

Q How long did you know them there after he went to living with Sukie Vann? A Well-

Q About what time did they leave that country? A He left there some time in '68, either, sometime in '68.

Posey Gibson and Charley Pee and the old man Pee all moved in here somewhere about Chetopa in '68, that was my understanding, that's where they went to.

Q You knew them until they left up there? A Oh, yes, sir, I knew them myself, I worked for them and worked with them.

Q How near did they live to you? A Well they were just about, they was about four miles.

Q You knew Posey Gibson, too, did you? A Oh, yes, sir.

This Josh Vann, son of Sukio, lived most of the time with Posey Gibson. You see after she left her first man that she lived with there, was Gilbert Vann, well after he either died or separated, I think he died, that was Gilbert Vann, she lived with Gilbert Vann, her first man there, well then she went to live with her mother, lived up the river from us in what was called the Hobson settlement, then she went to live with her mother that was down the river from us east you know about four miles down the river, well then this boy, Culler Vann, or not Culler Vann but Josh Vann, the boy, lived with Posey Gibson.

Q Right there in the same neighborhood? A Yes, sir, right in the same neighborhood; well they were about a mile apart, about a mile apart I think. I think he lived there as much as three or four years with Posey Gibson.

Q And you say Posey Gibson never left there till '68? He never left until up in '68, they all left there about the same time, they all left there about the same time.

MR. SMITH: Why, Mr. Perkins, did you get a lease, but some school land up there? A No, that was my wife's first husband.

Q It was? A Yes, sir, I know about the date, I was living right there when the deal was made, mind you.

Q When was that? A Well, that was in, I can't give you the numbers of the land.

Q No, the date I am asking about? A Oh, that was in '66.

Q What time? A In '66, October I think, about the 15th, that was; I bought some school land about the same time, about '66.

Q Well now after that school land was bought how long did these people the Pees that you are talking about, ever live on that school land that he bought? A Well I don't know; there was a man by the name of Jackson that had married one of these Pees lived on that school land, and I don't remember that Charley Pee ever lived on that school land, if he did I don't remember; he lived in the same neighborhood.

Q Where were you living? A I was living in Mapleton all this time.

Q How far from that school land? A About four miles.

Q Well how long after the school land was sold there before this man Jackson went to live on the school land? A Well now I think that he - I think that Jackson lived there about, I think about a year, a little over a year.

Q Little over a year? A Yes, sir.

Q Well was he living on it at the time he left to go away from that country? A Jackson?

Q Yes, sir? A Yes, sir.

Q He and the Pees all went together did they, or how was it? A No, sir, Jackson and the Pees didn't come together.

Q When did Jackson go? A Well now I always understood that Jackson went to Humboldt, but I ain't sure.

Q Well when? A About, well about '67 or '8, somewhere along there, and then he was on the school land about a year, I believe

in '68.

Q When did you think he went on the school land? A Well he went on the school land - well that school land was purchased in October, '66, and then he put up buildings, and he went onto it, and I don't think he was on there more than a year.

Q How long was it after it was bought in '66 before he went on it? A I think, I don't remember the exact days, but he built on it and put up some cabins, double log cabins.

Q Was it the same year that it was bought? A Yes, sir, the same year, in '67 - no, in '66. Well it was that next winter that he built on it, he went; but you see he bought it in October, '66.

Q It was that following winter that he went onto it? A Yes, sir. Q And nobody went on it but Jackson? A Well I never of anyone living on there now, that school land but Jackson, that is any of the colored people; I never knew the Pees lived on it. Charley lived right in the neighborhood, he lived there.

MR. HASTINGS: How far? A Well within a half a mile of that school land.

Q Do you know whether it was on the school land or not that he lived? A Well I don't, but I don't think that he lived on it, but I a'n't sure but they was on that now; I can't be positive about that, my woman knows whether they was, but he lived right in that neighborhood now, you know for me just to say positive, for them buildings was all gone after that, after they left those cabins they were torn down.

Q Well she would know more about that than you would, wouldn't she? A Yes, sir.

Q When were you married to her? A We was married in '88, '89.

Q A number of years after that? A Yes, sir.

Q You wasn't living with her at that time? A We all lived in the same neighborhood, had known one another.

COMMISSION: This testimony will be filed with and made a part of the record in the following Freedmen cases: D-416, R-94, D-666, D-707, D-725, and D-415, the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 22nd day of May, 1902.

(Seal)

(Signed) P. G. Reuter,

Notary Public.

70707

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I, Arthur G. Evans, a stenographer to the Commission to the Five Civilized Tribes, on oath, state that the above and foregoing is a true and perfect copy of the original now on file with the Commission, as the same was made by me.

Arthur G. Evans

Subscribed and sworn to before me this 28th day of July, 1902.

Prace C Jones
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FOPT

In the matter of the application for the enrollment of
Ed Riley, et al. as Cherokee Freedmen, consolidating the applica-
tions of

Ed Riley, et al.,.....	Cherokee Freedmen D 696
Sarah Flynn, et al.,.....	" " D 707 ✓
Richard Riley, et al.,....	" " D 708
Fred Riley,.....	" " D 709

D E C I S I O N .

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Ed Riley for himself and his four minor children, Matt, Jessie, Howard and Annie Riley, as Cherokee freedmen and for the enrollment of his wife, Mary Riley, as a Cherokee Freedman by intermarriage; but as the status of persons applying for enrollment as Cherokee Freedmen by intermarriage is not fixed at this time, the application for the enrollment of Mary Riley, as such, will not be adjudicated in this decision; by Sarah Flynn for herself and her minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn; by Richard Riley for himself and his two minor children, Willie and Mary Riley, and by Fred Riley for himself.

The evidence shows that all of the applicants herein are the descendants of one, Joseph Riley, who was the slave of a Cherokee citizen at the commencement of the rebellion; that the said Joseph Riley went to Kansas during the rebellion and did not return to and establish a residence in the Cherokee Nation within the time specified, in the decree of the Court of Claims, in the case of Moses Whitmire, trustee, et al., vs. The Cherokee Nation, et al., for the return of freedmen to said Nation; and that all of said descendants of Joseph Riley were born since the commencement of the rebellion and have no rights as Cherokee Freedmen, except such as they may have acquired through him. It further appears that none of said applicants are identified on the 1880 authenticated Cherokee roll.

-2-

It is, therefore, the opinion of this Commission that the applications for the enrollment of Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Berena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley (daughter of Richard Riley) and Fred Riley as Cherokee Freedmen should be denied under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED).

Tame Birby.

Chairman.

(SIGNED).

T. E. Needles.

Commissioner.

(SIGNED).

C. H. Broomfield.

Commissioner.

(SIGNED).

W. E. Stanley.

Commissioner.

Muskogee, Indian Territory,
this MAR 5 1900

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
AUXILIARY CHEROKEE LAND OFFICE.

Muskogee, Indian Territory, February 6, 1905.

In the matter of the application of Joseph Flynn, Cherokee Freedman, doubtful Card No. 707, to file an allotment for himself in the Cherokee Nation.

Joseph Flynn, being sworn, testified as follows:

Examination by the Commission:

- Q What is your name? A Joseph Flynn.
Q What is your postoffice address? A Chelsea.
Q How old are you? A 21.
Q Who is your mother? A Sarah Flynn.
Q Your father? A Dennis Flynn.
Q When were you 21? A 21 years old the last day of December.
Q What year were you born in? A In 79.
Q Born in 1879? A Yes sir.
Q You are sure then that you were born in that year? A Yes sir.
Q Still sure you are 21 years old? A Yes sir.
Q Well if you were born in 1879 would you not be more than 21 years old? A No I do not think I would, would I.
Q It seems to me you would be more than 21? A I may have it wrong but I do not think that it is.
Q You think that is right? A Yes sir.
Q Anyway you know you are past 21 years? A Yes sir.
Q You are now ready to select an allotment for yourself in the Cherokee Nation, which will be held pending the decision of your citizenship? A Yes sir.
Q You have enough lands to make an allotment of \$310 or more? A Yes sir.
Q On the west side of the Grand river? A Yes sir on the west side.

(Witness excused).

Blanch Ashton upon oath states that as stenographer to the Commission to the Five Civilized Tribes she accurately recorded the testimony in the above entitled cause and that the foregoing is a correct transcript of her stenographic notes thereof.

Blanch Ashton

Subscribed and sworn to before me this 6th day of February, 1905.

W. A. Macdonald
Notary Public.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

Dennis Flynn, being first duly sworn, on his oath states:
that his post office is Chelsea, Ind. Ter.; that he is the husband of
Sarah Flynn of Chelsea, Ind. Ter., and that Castella Flynn, deceased,
is a child born as the result of his marriage with the said Sarah
Flynn; that said Castella Flynn, deceased, died on the 4 day of
April, 1906; that the said Castella Flynn, deceased, is a regularly
enrolled and approved freed-man citizen of the Cherokee Nation, Indian
Territory, whose allotment has not been made; and that said Castella
Flynn died near Chelsea, Ind. Ter., and that no administrator has been
appointed for the estate of said Castella Flynn; that the following
named persons are the lawful heirs ~~##~~, and that there are no other
lawful heirs of said Castella Flynn; the said heirs being as follows:

Oliver Flynn Joseph Flynn Fannie Flynn
Margaret Flynn Nettie Flynn Grace
Flynn

Further this affiant sayeth not.

subscribed and sworn to before me this 18 day of April, 1907.

U. E. Dodson

Notary Public.

My commission expires Jan. 30, 1910.

Affidavit.

Castella Flynn.

RECEIVED
CHEROKEE LAND OFFICE

FILED

Apr-20-1907

[Signature]

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

Sarah Flynn of Chelsea, Ind. Ter., being first duly sworn, on her oath states that she is the lawfully wedded wife of Dennis Flynn of Chelsea, Ind. Ter.; that she is duly enrolled and approved citizen of the Cherokee Nation (Freedman) whose roll number is F. 1557; that she is the mother of Castella Flynn, deceased, who died on the 4th day of April, 1905; that said Castella Flynn, deceased, is a regularly enrolled and approved freeman citizen of the Cherokee Nation, whose allotment has not been made; and that the following persons are the lawful heirs, and that there are none other law-ful heirs, of the said Castella Flynn, deceased: Oliver Flynn, Joseph
Flynn, Fannie Flynn, Susaner Flynn
Nattie Flynn, Grace Flynn.

Further this affiant sayeth not.

Subscribed and sworn to before me this 18 day of April, 1907.

Sarah Flynn
M. C. Rodson
Notary Public.

My commission expires Jan. 30, ~~1907~~ 1910.

1557

Affidavit

Plym

RECORDED AND INDEXED
CLERK OF COURT AND OFFICE

APR 20 1911

[Signature]

1557

C.F.B.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES,
CHEROKEE LAND OFFICE.

Muskogee, Indian Territory, June 3, 1907.

Cher. Freedman Card #1557
" " Roll No. 4350

In the matter of the application for the selection of an allotment in the Cherokee Nation for Fannie Graves, enrolled as Fannie Flynn.

Harry Graves, being first duly sworn by J. E. Tidwell, Notary Public, testified as follows:

On behalf of Commissioner:

- Q What is your name?
A Harry Graves.
Q What is your age?
A 24.
Q What is your postoffice address?
A Catale.
Q What is your purpose in appearing before the Commissioner today?
A My purpose is to file.
Q File for whom?
A File for myself and my wife.
Q What is your wife's name?
A Fannie Graves now; Fannie Flynn before.
Q Your wife is enrolled as Fannie Flynn?
A Yes sir.
Q She is the daughter of Sarah Flynn?
A Yes sir.
Q When were you married to her?
A I disremember the exact day, but it was in July - two years this coming July.
Q You were married then in July, 1905?
A Yes sir.

Witness Harry Graves is enrolled on Cherokee Freedman card field No. 1324 opposite roll No. 3655.

Witness excused.

I, May Hudson, state upon oath that as stenographer to the Commissioner to the Five Civilized Tribes I correctly reported the testimony given above and that the foregoing is a true and complete transcript of my stenographic notes thereof.

Subscribed and sworn to before me this
3rd day of June, 1907.

May Hudson
James M. Lane
Notary Public.

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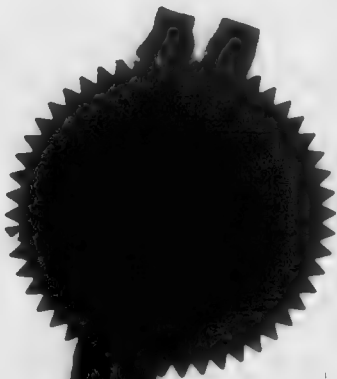
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS



WASHINGTON, September 19, 1918.

I, E. B. Meritt, Assistant, Commissioner
of Indian Affairs, do hereby certify that the paper hereto attached
is a true copy of the original as the same
appears on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my
name, and caused the seal of this Office
to be affixed, on the day and year first
above written.

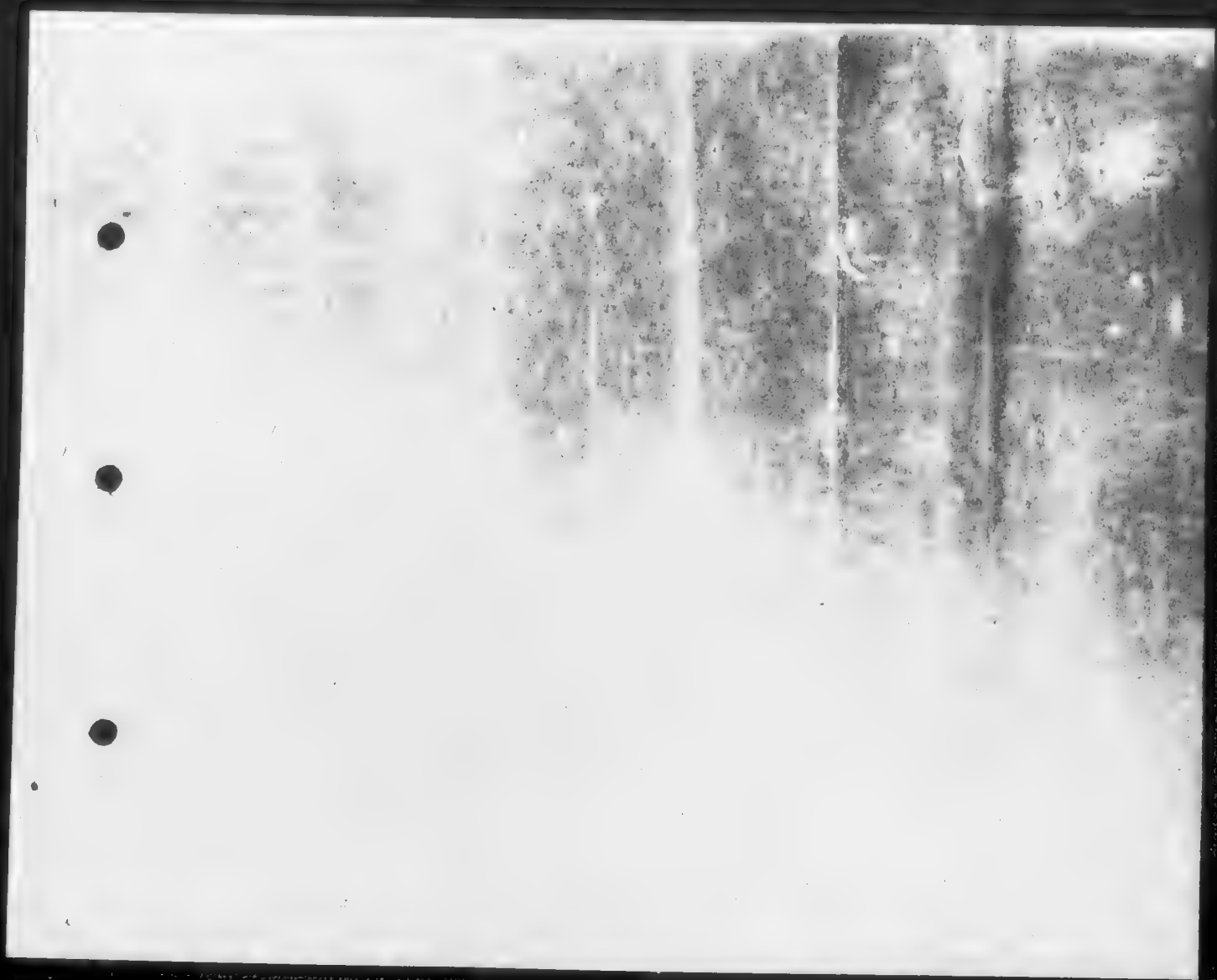


E. B. Meritt
Assistant Commissioner.



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COPY.

Cherokee Freedmen
D-707.

Muskogee, Indian Territory, March 22, 1904.

Sarah Flynn,

Hayden, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself and your seven children, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn, as Cherokee freedmen. There has this day been forwarded your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

I. D. No. 3100

Register

Commissioner in Charge.

Enc. D-39.

Cherokee Freedmen
D-396 et al.

Muskogee, Indian Territory, March 22, 1904.

Edgar Smith,

Attorney for Ed Riley et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the consolidated case of Ed Riley et al., together with a copy of the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Register.

Enc. D-31.

L. D. [Signature]
Commissioner in Charge.

Cherokee Freedmen
D-696 et al.

Muskogee, Indian Territory, March 22, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Ed Riley et al., rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

I. B. A.

Enc. D-32.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-696 et al.

Muskogee, Indian Territory, March 22, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Ed Riley et al., including the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

Respectfully,

I. D. Needles.

Through the
Commissioner of Indian Affairs.

Commissioner in Charge.

Enc. D-33.

Refer in reply
to the following:
Land,
20430-1904.

COPY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
WASHINGTON.

July 13, 1904.

The honorable,

The secretary of the interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes dated March 22, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Ed Riley for himself and his four minor children, Matt, Jessie, Howard and Annie Riley; of Sarah Flynn for herself and her seven minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Grace Flynn; of Richard Riley for himself and his two minor children, Willie and Mary Riley, and of Fred Riley for himself.

March 5, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that all of the applicants are descendants of Joseph Riley, who was the slave of a Cherokee citizen at the beginning of the war of the rebellion and went out of the Nation during the war, and returned to the Cherokee Nation and established a residence prior to February 11, 1867.

There is the usual testimony on the part of the Cherokee Nation of some two or three witnesses who testify that they did not see Joseph Riley, the ancestor, through whom the applicants claim, until sometime between 1875 and 1880, and it is conceded that more of the same quality of testimony could have been adduced.

The applicants furnish the positive testimony of three witnesses showing that Joseph Riley and his family returned to the Cherokee Nation in 1866, and he died there in 1899.

All of the applicants born at that date are identified on the Kern-Clifton roll but none are found on the 1860 authenticated Cherokee roll.

In view of the record, it is recommended, that the Commission's decision adverse to the applicants be not approved, and that the applicants be enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tenner

Acting commissioner.

M.M.M.
W.

3 encl.

D. C. 26254-1904,

I.T.D. 5726-1904.

L.R.S.

V.C.F.

THE J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON. July 22, 1904.

Commission to the Five Civilized Tribes,
Muskegee, Indian Territory.

Gentlemen:

March 22, 1904, you transmitted the record in the matter of the consolidated Cherokee freedman case of Ed Riley, et al (D-696 et al), including your decision of March 5, 1904, rejecting the applicants.

Reporting in the matter July 13, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be not approved, and that the applicants be enrolled as Cherokee freedmen.

You are directed to advise the applicants and the attorney for the Cherokee Nation of the Acting Commissioner's recommendation, and allow said attorney thirty days within which to file an argument in the matter, and the applicants ten days within which to reply to same.

Respectfully,

Thos Ryan

Acting Secretary.

Cherokee Freedmen

D-707.

Muskogee, Indian Territory, August 1, 1904.

Sarah Flynn,

Hayden, Indian Territory.

Dear Madam:

In the matter of your application for the enrollment of yourself and children as Cherokee Freedmen, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision rejecting your application be not approved, and that you be enrolled as Cherokee Freedmen.

In accordance with instructions contained in the Department's letter you are advised that the attorneys for the Cherokee Nation have this day been notified that they will be given thirty days from date hereof within which to file with the Commission, for transmission to the Secretary of the Interior, such argument as they may desire to submit in this case, copies of which they will be required to furnish both yourself and your attorney, Edgar Smith, Vinita, Indian Territory. You are advised that you will be allowed ten days additional within which to file with the Commission, for transmission to the Secretary, a reply to said argument.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-696-702-708-709.

Muskogee, Indian Territory, August 1, 1904.

Hastings, Bell & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Ed Riley, et al, Cherokee Freedmen D-696; Sarah Flynn, et al, Cherokee Freedmen D-702; Richard Riley, et al, Cherokee Freedmen D-708; Fred Riley, Cherokee Freedman D-709, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision in these cases rejecting the applicants be not approved and that the applicants be enrolled as Cherokee freedmen.

In accordance with instructions contained in the Department's letter you are advised that you will be allowed thirty days from date hereof within which to file with the Commission for transmission to the Secretary of the Interior such argument as you may desire to submit in these cases, copies of which you will be required to furnish the principal applicant in each of the above named cases, and also their attorney, Edgar Smith, Vinita, Indian Territory.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, August 1, 1904.

Edgar Smith,

Attorney for Ed Riley, et al.,

Vinita, Indian Territory.

Dear Sir:

In the matter of the application for enrollment of Ed Riley, Cherokee Freedmen D-696; Sarah Flynn, et al., Cherokee Freedmen D-707; Richard Riley, et al., Cherokee Freedmen D-708; and Fred Riley, Cherokee Freedmen D-709, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision rejecting these applicants be not approved, and that the applicants be enrolled as Cherokee Freedmen.

In accordance with instructions contained in the Department's letter you are advised that the attorneys for the Cherokee Nation have this day been notified that they will be given thirty days from date hereof within which to file with the Commission for transmission to the Secretary of the Interior such argument as they may desire to submit in these cases, copies of which they will be required to furnish both the principal applicant in each case and yourself. You are advised that you

-2-

will be allowed ten days additional within which to file with the Commission for transmission to the Secretary a reply to said argument.

Respectfully,

Commissioner in Charge.

COPY.

Muskogee, Indian Territory, October 18, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of July 23, 1904, (I.T.D. 5726-1904), there is herewith transmitted argument filed with the Commission by the attorneys for the Cherokee Nation, in the consolidated freedman case of Ed Kiley, et al., (Cherokee Freedmen D-696, et al.).

No reply has been filed in behalf of the applicants.

Respectfully,

Encl. B-25

SIGNED

James Kirby
Chairman

DEPARTMENT OF THE INTERIOR, LLR

WJF
J.P.

WASHINGTON.

I.T.D. 5726, 11070-1905.

September 8, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On March 22, 1904, you transmitted the record in the consolidated Cherokee freedman case of Ed Riley et al., embracing the applications for the enrollment of Ed Riley and his four minor children, Matt, Jessie, Howard, and Annie Riley; of Sarah Flynn and her seven minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella, and Grace Flynn; of Richard Riley and his two minor children, Willie and Mary Riley; also the application of Fred Riley.

On March 8, 1904, the Commission to the Five Civilized Tribes held that the applicants were not entitled to enrollment as Cherokee freedmen, for the reason that the record showed that Joseph Riley, the ancestor through whom the applicants claim right to enrollment did not return to the Cherokee nation prior to February 11, 1867.

Reporting July 13, 1904, the Indian Office recommended that the Commission's decision adverse to the applicants be not approved, and that the applicants be enrolled as Cherokee freedmen. A copy of its letter is inclosed.

July 22, 1904, the Commission was directed to notify the applicants and the attorneys for the nation of the recommendation of the Indian Office, and allow said applicants and attorneys further time

within which to file argument in the case. Argument by attorneys for the nation was filed with the department and has received due consideration.

It is shown by the record that the applicants are descendants of Joseph Riley, and that said Joseph Riley was a slave of a citizen of the Cherokee nation at the beginning of the war. It appears that he went to Kansas during the war. The question to be determined is whether said Joseph Riley returned to the nation prior to February 11, 1867.

Witness John Landrum stated that he saw Joseph Riley in the nation just after Christmas, in 1866. Polly Nivens stated that she saw said Joseph Riley in the nation the next year after peace was declared. L. D. Daniels stated that he saw him at Fort Gibson in December, 1866; that he, Riley, stated he was living at Fourteen Mile Creek. Emily Humphries, witness introduced by the attorneys for the nation, testified that she saw Joseph Riley 8 or 9 years after peace was declared. Columbus Lasley saw him in 1860 or 1861. W. H. Markham did not know where said Joseph Riley was in 1866; that he, Riley, told him several years after the war that he came from Emporia, Kans. Tom Harlin, said to be a son of Joseph Riley, first saw said Riley at Fourteen Mile Creek "about the time the colored people drew the last time with the Cherokees." Austin W. Foreman saw said Joseph Riley in 1862 and again 17 years prior to the taking of the testimony herein. Granville Craig did not know where Joseph Riley was in 1866.

The attorneys for the nation claim that Polly Nivens and L. D. Daniels are unworthy of belief. There is nothing in the record, however, which impeaches their testimony. Their statements are corroborated by the testimony of John Landrum.

That Joseph Riley returned to the nation prior to February 11, 1867, is not denied by the witnesses introduced by the attorneys for the nation. As will be seen from the above statements as to what said witnesses testified to their testimony relates to the applicant's whereabouts several years subsequent to 1866. Apparently, they are not informed as to his whereabouts in 1866.

The department therefore believes that the preponderance of the evidence shows that said Joseph Riley returned to the Cherokee Nation prior to February 11, 1867. The recommendation of the Indian Office is therefore concurred in.

The commission's decision of March 3, 1904, is reversed and you are directed to enroll the applicants as Cherokee freedmen.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Cherokee Freedman
D-707

Muskogee, Indian Territory, May 28, 1906.

Sarah Flynn,

Hayden, Indian Territory.

Dear Madam:-

You are hereby advised that the motion filed by
your attorneys September 7, 1905, for a review in your Cherokee
freedman enrollment case, was dismissed by the Department
May 2, 1906.

Respectfully,

James D. Smith

Commissioner.

LMC

Muskogee, Indian Territory, May 28, 1906.

Blue & Bulger,

Attorneys for Eliza A. Arnold, et al.,
Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

WMP

Muskegee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1905, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

LMC

Muskogee, Indian Territory, June 15, 1906

The Honorable,

The secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of September 8, 1905 (I.T.D. 5726,11070-05), reversing the decision of the Commission to the Five Civilized Tribes dated March 5, 1904, in the matter of the applications of Ed Riley, et al., for enrollment as Cherokee freedmen, wherein it is held by the Commission that the said applicants are not entitled to enrollment as Cherokee freedmen.

The reason for the Department's action in this matter is based upon the testimony of John Landrum, Polly Nivensa and L. D. Daniels, which, it is held, in effect, shows that one Joseph Riley, through whom the eighteen applicants in this consolidated case claim the right to enrollment as Cherokee freedmen, complied with the provisions of Article IX of the Treaty of 1866, as interpreted by the Whitmire decree, for the return of freedmen to the Cherokee Nation.

As stated in Departmental letter above referred to "The question to be determined is whether the said Joseph Riley returned to the (Cherokee) Nation prior to February 11, 1867?" and it is held by the Department that it is established by the testimony of the three witnesses above named that he did return within the time specified.

The Department has repeatedly ruled that the burden of proof is upon the applicants, and that they must show by satisfactory, clear and convincing evidence that their right to Cherokee citizenship is perfect. Eliza Bryant et al. (I.T.D. 544-04), William Rector (I.T.D. 1463-04), Minnie Duncan et al (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Moses Ross (I.T. D. 6066-04), Florence Bratcher (I.T.D. 12592-04), and Jane Looney et al. (I.T.D. 13688-04).

In view of the fact that the provisions of Article IX of the treaty of 1866 were, in a measure, imposed upon the Cherokee Nation as a penalty for its conduct during the late rebellion, the justice of the above indicated rulings become apparent, and, under the authority of these

rulings it is that this office, for reasons set out below, begs leave to file its protest against the action of the Department in reversing said decision of the Commission to the Five Civilized Tribes rendered on March 5, 1904, wherein it was held that Ed Riley, et al., Doubtful cases Nos. 696, 707, 708 and 709, respectively, are not entitled to enrollment as Cherokee freedmen.

After five years experience with the witnesses, John Landrum, Polly Nivens and L. D. Daniels (among many others), this office is prepared to say that their testimony is valueless in determining facts at issue in any case in which they testify.

In re John Landrum: As a matter of fact this witness was not in the Cherokee Nation "three or four weeks after Christmas, 1866" the time at which he claims to have seen Joseph Riley and his little boy returning from Kansas to his old home near Park Hill, Cherokee Nation. Neither the said John Landrum, nor any one of the Webber-Whitmire-Sanders colony of freedmen, of which he was a member, were in the Cherokee Nation between Christmas, 1866, and March, 1867, and that these are the facts

this office is thoroughly convinced, from evidence in its possession collected from hundreds of freedmen cases.

The inconsistency of John Landrum's testimony in this case is shown in the following extracts, to-wit: "I seed him (Joseph Riley) on Lightning Creek, between Lewis's (Whitwire or Wright) place and my place; on Lightning Creek, I had just come there." Between his place on Lightning Creek and Lewis Whitwire's place on Big Creek is where this witness claims to have seen Joseph Riley as he was returning from Burlington, Kansas, to his old home at Park Hill, in the Cherokee Nation, and he further testifies that Joseph Riley and a small boy were traveling alone. In the first place the returning freedmen were not traveling alone in 1866 and 1867, their experience at Horse Creek having shown them the danger of such a practice, and the evidence in numerous cases before this office shows that they invariably returned in crowds. In the second place, at that time Coowese-coowee District was a wilderness of which the ex-Cherokee slaves knew as little as they did of the jungles of Africa, and it is unreasonable to presume that Joseph Riley would,

at that time, have attempted to cross that part of the Cherokee Nation alone and unaided. In the third place, there was a well traveled military road leading direct from the vicinity in Kansas where it is alleged Joseph Riley lived during the war, to his old home in the Cherokee Nation, hence, the question naturally arises, What was Joseph Riley's object in traveling thirty-five miles to the west of the main road leading direct to his destination, alone and unprotected, through a country which necessarily must have been a wilderness to him, and in which there were no settlements or roads to guide him to his objective point, Park Hill?

It cannot be contended that Joseph Riley had gone over to Lightning Creek to see his old friend and acquaintance, John Landrum, as this witness testifies "He never stopped to my knowing, did not stay any time; I just met him on the road, he knowed me; 'Hello, my boy, isn't this Jack', and I said 'this is', and he said 'I am trying to get back to my old home'. Witness also testifies that there was no road where he met Joseph Riley, "just a path".

Evidence aliunde:

In C. F. D. 474, John J. Rose, et al. The minor applicants in this case claim through their mother, Emma Rose, nee Dannenberg. John Landrum of Hayden, witness:

- Q Do you know Emily Rose, the wife of John Rose?
A Yes sir, I am slightly acquainted with her.
Q When did you first see her in the Cherokee Nation after the war? A. On Lightning Creek
Q When? A. Fall of '66.
Q Who was she with? A. Her mother, Tilda."

In this case it was shown by documentary and testimonial evidence, thoroughly convincing, that Emily Rose and her mother Tilda, continuously lived at Lawrence, and Tepaka, Kansas, from the close of the rebellion till subsequent to April 5, 1873, and in its decision rendered on March 11, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on December 3, 1904 (Departmental letter I. T. D. 10732-04).

In C. F. D. 664, Jim Landrum, et al. John Landrum,
of Hayden, witness:

- "Q When did you first see him (Jim Landrum) in the
Cherokee Nation after the war? A. I saw him in
'66 on Grand River, to his father's.
Q Did his father come back at the same time he did?
A Yes sir, of course he did.
Q And if he says he came back before his father did
he is mistaken, isn't he? A. He come before
that time expired and remained;.....
Q Has he been living near you ever since he returned?
A No sir, not near me.
Q How often have you seen him? A. Sometimes about
a month or two."

The testimony of C. R. Griffith of Vinita, Indian
Territory, formerly of Emporia and Neosho Falls, Kansas,
and of C. W. Learned, M. B. Moore and J. A. Lynn, of
Neosho Falls, Kansas, shows conclusively that the said
Jim Landrum continuously lived in and around Neosho Falls,
Kansas, from the close of the rebellion till 1885, and in
his decision rendered on September 8, 1905, the Commission-
er to the Five Civilized Tribes so found, the proceedings
in this case being duly forwarded to the Department, where
they are now pending.

In C. F. R. 198, Mariah Hayden, et al. John
Landrum, of Hayden, witness:

"....A. I saw her (Mariah Hayden) in the Cherokee Nation in '66, after she had come back.

Q Where? A Lightning Creek.

Q Where has Mariah Hayden lived since? A. She moved from there to a little place southwest of there.

Q Has she lived on these two places ever since?

A. Yes sir."

In this case it was shown by convincing testimony that Mariah Hayden and her husband, Henry Hayden, lived in and near Lawrence, Kansas, from the close of the rebellion till subsequent to the year 1873, and in its decision rendered on August 30, 1902, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on November 28, 1902 (I.T.D. 6964-02).

C.F. R. 410, Katie Thornton, et al. John Landrum, of Hayden, witness:

"Q Do you know who came back with her (Katie Thornton)?

A Yes sir.

Q Who? A. Thornton, her husband.

Q What was his name? A. Henry.

Q What year was that? A. That was in '66, in the fall, with others; the latter part of winter, kind of. It was in the winter.

Q They made a house down here did they? A. Yes sir.

Q Did you help build that house? A. I helped to haul the logs."

In this case it was shown that Henry and Katie Thornton had lived at Garnett, Kansas, from the close of the

rebellion until March, 1871, and in its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on June 21, 1904 (Departmental letter I.T.D. 3746-04).

C.F.D. 995, Thadeus Hill, et al., claiming through their mother, Angeline Hill, John Landrum, of Hayden, Witness:

- "Q When did you know Angeline Hill? A. Before the war.
Q Do you know whether she returned to the Cherokee Nation or not? A. Why yes, I saw her on Grand River in '67.
Q What time in '67 was it you saw her? A. I think it was in, let's see, I think, well it was: I want you to give me time to study, because I want to have it right; it was in January, as near as I can remember.
Q That was the year after '66 was it, the year after you had come back? A. I suppose so; yes sir, that is what it was."

In its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes found that the said Angeline Hill did not return to the Cherokee Nation after the rebellion, within the time specified in the whitmire decree, the proceedings in this case being duly forwarded to the Department, where they are now pending.

In re witness L. D. Daniels: In C.F.D. 723,
Eliza Ratcliffe. L. D. Daniels, of Claremore, witness:

- "Q Do you know the applicant here, Eliza Rateliff?
A Yes sir, I got acquainted with her in '64, sir.
Q Where? A. At the Salt Lake in Illinois District, Cherokee Nation.
Q You say you saw her there in '64? A. Yes sir..... she was cooking for a captain, fullblood Cherokee they called Lesha, and he claimed to bring her from Flint or Going-Snake, or somewhere up there.
Q What became of her? A. I lost sight of her.
Q Lost sight of her where? A. Fort Gibson.
Q Did she come to Fort Gibson? A. Yes, sir.
Q How do you know? A. I was in the wagon, drove one of them.
Q She went to Fort Gibson with the army? A. Yes sir."

In this case it was shown that the applicant had been sold out of the Cherokee Nation four or five years prior to the Commencement of the rebellion, and was not again in the Indian Territory till subsequent to February 11 1867, and in its decision rendered on August 25, 1904, the Commission to the Five Civilized Tribes so found, its finding being concurred in by the Commissioner of Indian affairs, and affirmed by the Department, November 12, 1904 (Departmental letter I.T.D. 6196-04)

C. F. D. 755, John Morgan et al., L. D. Daniels, of Claremore, witness:

- "Q Do you know the applicant, John Morgan? A. Yes sir.
Q Do you know his wife, Cynthia? A. Yes sir.
Q Do you know when they returned to the Cherokee Nation after the war? A. Yes sir, I do.

Q What year? A. In 1866

Q Where did you first see them? A. Right at Fort Gibson, sir.

Q Do you remember how they came there, or do you know?

A On the steamboat.

Q Where did it land at? A. Right there where the bridge is now.

Q You saw him and his wife get off? A. Yes sir, I moved them, I moved their goods off the boat.

Q You state you saw him in Fort Gibson in '66?

A Yes sir in November, October or November, the last of October or the first of November.

Q In '66? A. '66.

Q What was the name of that boat? A. Leeatta."

In its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes found that John and Cynthia Morgan did not return to the Cherokee Nation after the rebellion till subsequent to January 19, 1867, and on September 27, 1904, (I.T. No. 8106-8011-04), its said decision was affirmed, the Department further finding that said applicants did not return to the Cherokee Nation till subsequent to February 11, 1867.

C. F. R. 128, Henry and Mariah Hayden. L. D. Daniels, of Claremore, witness:

"Q Do you know H. C. Hayden? A. Yes sir.

Q Do you know Mariah, his wife? A. Yes sir, I am well acquainted with her.

Q Well, now, when do you remember of first seeing Mariah, the wife of Hayden, in the Indian Territory, after the war? A. The first time I remember of seeing her it was about December 29 or January 1, somewhere along there.

Q Where did you see her? A. I seen her on East Cabin, near about a mile and a half or two miles from where they now live.

Q Well, now, you say December? A. It was either the latter part of December or first of January, '67.

Q Do you remember who was with her up there? A. I remember Harry Still.

Q Harry Still? A. Yes sir, and there was a girl and a boy, I did not inquire who they were.

Q You have not seen Mariah since that time? A. Oh yes sir, I am very well acquainted with her."

In this case it was shown by satisfactory evidence that Mariah Hayden and her husband, Henry Hayden, had lived in and near Lawrence, Kansas, from the close of the rebellion till subsequent to the year 1873, and in its decision rendered on August 30, 1902, the Commission to the Five Civilized Tribes so found, its said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on November 28, 1902 (I.T.D. 6964-02). The Commission also found in C. F. 876 that the said Harry Still did not return to the Cherokee Nation after the rebellion within the time specified in the Whitaire decree, and said finding of facts was concurred in by the Commissioner of Indian Affairs (Land 63179-04), and affirmed by the Department on November 13, 1904 (I.T.D. 7678-04).

C. F. R.283, Abraham Ward, et al. L. D. Daniels,
of Claremore, witness:

- Q Do you know the applicant (Abraham Ward)? A. Yes sir.
Q How long have you known him?
A I got acquainted with him in the fall of '66.
Q Where did you see him in the fall of '66?
A At Fort Gibson.
Q How did you happen to see him at Fort Gibson in '66?
A He come to Amanda and Ruthie Adair's and was going
to take them away and I asked him what he was going
to do with them, and he said he was going to
take them to his people.
Q You had never seen him before that?
A No sir, he was a stranger to me then.
Q What time did you see him there (Fort Gibson)?
A In the fall.
Q What time in the fall? A. First part of September
or the last part of August, somewhere along there.
Q How did you know it was in '66? A. Because I was
living right there and I noticed all the girls that
come in there."

In this case it was shown by satisfactory evidence
that the said Abraham Ward lived in Kansas from the close
of the rebellion till subsequent to the year 1866, and in its
decision rendered on July 10, 1903, the Commission to the
Five Civilized Tribes so found, its said finding being con-
curred in by the Commissioner of Indian Affairs and affirmed
by the Department on April 29, 1904 (I.T.D. 3284-04).

C.F.R. 375, Emily Walker et al. L. D. Daniels,
of Claremore, witness:

Q When did you first see her (Emily Walker) after the war closed? A. Well, I aint certain, I think it was just before the cholera, and the cholera was in '67, commenced along about April, or May or June.

Q You know how long before the cholera it was that you saw her that time? A. She was there after the surrender.

Q How long after the surrender? A. She was cooking up there in the quarters, and I couldn't state, just seen her every once in a while, cooking up there at the soldiers' quarters, Major Lugenberry.

Q That was the time you saw her there, the first time, you spoke about awhile ago? A. I see her there in '62, and I went to the Choctaw Nation the first day of March '62 and I came back in August, in September, on the tenth of August, and went back to the Choctaw Nation again in September, and came back in February '63, and I found Emily there then, cooking in these soldiers quarters there then.

Q Where? A. At Fort Gibson, sir.

Q Then when did you next see her after you saw her in '63? A. I saw her there when the Cherokees were mustered out, at the soldiers quarters, that was in June sometime, I think, '65.

Q Then when did you next see her? A. I aint positive of this fourth time I seen her, but I think she was there just before the cholera broke out.

Q You don't know how long before the cholera broke out?

A It was the same spring I think, in '67.

Q Did you see her yourself during the year of '66

A Yes sir.

Q Where? A. At Fort Gibson.

Q What time in '66? A. It was the summer, I believe, or the fall; the soldiers was mustered out in '65, I don't know whether it was May or June, and Emily was there then, I am satisfied of that, because I seen her.

Q And then what time was it in '66 that you saw her?

A I told you awhile ago that it was near about the fall of '66, and I wasn't cor ain, but I seen her in the spring of '67 before the cholera broke out, that is just what I said."

In this case it was shown by convincing testimony that the applicant, Billy Walker, lived in Kansas from the year 1865 till subsequent to the year 1870, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, its finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department, on June 3, 1904, (I .T.D. 4236-04).

C.F.R. 380, Sandy Ross. L. D. Daniels, of Claremore, witness:

Q You know when he (Sandy Ross) returned? A. Yes sir, I do.

Q When? A. In the spring of '63.

Q '63? A. Oh, of '66.

Q How do you know that? A. I will explain how I know it; August '63, August '66, Lewis Daniels, Dug Webber and Hus Rogers, George Ross and four or five other Cherokee fellows went to Lewis Downing's on the river and this man was in one of them old houses there. I don't know whether it was Glen Vann's old place, or Tom Rider's, but it was close to the old Chateau place.

Q That was in '66? A. That was in August, '66.

Q How intimately have you known him since that time? A After that I don't know exactly how long it was it might have been a year or longer, probably two years, maybe three, he came to Gibson. I was there first and then he come afterwards and stayed there a long time. He was a preacher and he preached there for us; I never will forget him this side of the Judgment, every time he would take his text it was in the seventh chapter of Corinthians."

In this case it was shown by competent testimony, that the applicant, Sandy Hess, had continuously lived at Iola, Kansas, from 1888 till October, 1901, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs, and affirmed by the Department on June 3, 1904 (I.T.D. 4342-04).

In re Polly Nivens: Realizing its inability to do the subject justice in a word picture of this most notoriously corrupt wench, this office will refrain from the attempt, with the remark that if the matters set out below are not sufficient to impeach her character and show the utter worthlessness of her testimony, more evidence is at hand and can be secured on short notice.

In C. V. D. 723, Eliza Ratcliffe. Polly Nivens, of Fort Gibson, witness:

Q How long have you known her (Eliza Ratcliffe)?

A I have known her ever since directly after peace was made.

Q Where did you see her directly after peace was made?

A In Fort Gibson.

In this case it was shown that the applicant was not in the Cherokee Nation, after the rebellion, till subsequent to the time specified in the Whitmore decree, and it

was so found by the Commission to the Five Civilized Tribes, and its finding was approved by the Department on November 12, 1904 (Departmental letter I.T.D. 8198-04) supra.

C.F.R. 375, Emily Walker. Polly Nivens, of Port Gibson, witness:

- "Q Do you know this applicant, Emily Grimmett(Walker)?
A Yes sir.
Q How long have you known her? A. I have known her all my life.
Q When did you first see her after the close of the war?
A I saw her when I was in Port Gibson, cooking for the generals issuing rations to the refugees, just after the close of the war."

In this case it was shown that the applicant, Emily Grimmett Walker had lived in Kansas from the close of the rebellion till subsequent to the year 1870, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on June 2, 1904 (I.T.D. 4816-04), supra.

C.F.D. 798, Florence Bratcher, applicant, claiming through her father, Ike Rogers, deceased: Polly Nivens of Port Gibson, witness:

- "Q Do you know Ike Rogers? A. Yes sir.
Q Did you know him before the war? A. No sir, just after peace was made.

- Q Where at? A. Fort Gibson.
Q How long after that did you know him? A. Off and on all the time after that.
Q When did you get acquainted with him? A. Well, it was just after peace, he had on soldier's clothes and I went to a dance and danced with him, and I asked him if he was a soldier and he said no, he just had on soldiers clothes then.
Q Did you see him after that up to the time he died?
A Yes sir, off and on.
Q Where did you see him? A. There in Fort Gibson."

In this case it was shown that the said Ike Rogers deceased, lived in Kansas from the close of the rebellion till the early '80's, and in its decision rendered on July 23, 1904, the Commission to the Five Civilized Tribes so found, said finding being affirmed by the Department on January 27, 1905 (I.T.D. 7144, 12692-04).

C F. D. 944, Sarah Nelson, et al. Polly Nivens, of Fort Gibson, witness:

- Q How long have you known her (Sarah Nelson)?
A Pretty near all my life.
Q Where did you first see her after the war?
A After peace was made?
Q Yes? A. I first saw her at Fort Gibson, at Caroline Forsman's.
Q What year was that? A. It was just when peace was made, the first year after peace was made.
Q Have you known her since that time? A. Yes sir."

In this case it was shown that the applicant, Sarah Nelson, had lived in Kansas from the close of the rebellion till about 1873 or 1874, and in its decision rendered

on July 29, 1904, the Commission to the Five Civilized Tribes found that the applicant did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on August 22, 1904 (I.T.D. 6422-04).

C.F.D. 984, Fannie Nicholson, et al, claiming through Rhoda Bean, deceased, mother of Fannie Nicholson, Polly Nivens, of Fort Gibson, witness:

- "Q You know the applicant, Fannie Nicholson?
A Yes sir, known her all my life.
Q Knew her mother? A. Yes, sir, I was not much acquainted with her mother.
Q Do you know to whom her mother belonged at the beginning of the war? A. Yes sir.
Q Who was that? A. Old Mrs. Martha Bean.
Q Was her owner a citizen of the Cherokee Nation?
A Citizen of the Cherokee Nation.
Q At the beginning of the war? A. Yes sir."

In its decision rendered on July 29, 1904, the Commission to the Five Civilized Tribes found that the said Rhoda Bean, since deceased, "was not the slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation, at the commencement of the rebellion", said finding being affirmed by the Department on September 1, 1904 (I.T.D. 6674-04), the Department saying "The main witnesses for the applicants have testified in numerous freedman cases in the most contradictory manner, and have been contradicted by reputable witnesses of the Nation."

In addition to the contradictory testimony of this witness as given in many freedman cases, particular attention is called to the case of Bessie Phillips, et al., Cherokee Freedman Doubtful case No. 852, in which the witness was impeached by the testimony of four reputable witnesses introduced in behalf of the Cherokee Nation. A copy of said impeaching testimony is hereto attached, for the convenience of the department in its investigation of the matters referred to in this protest.

In connection with the cases here under discussion the Department's attention is invited to the case of Nancy Humphries, Cherokee Freedman doubtful No. 30, now R 542. The record in this case shows that the said Nancy Humphries is a step-daughter of the said Joseph Riley, deceased, through whom the applicants herein, Ed Riley, et al., claim the right to enrollment, and further shows that the said Joseph Riley, deceased, and his wife, mother of the said Nancy Humphries, continuously lived in Kansas for ten or twelve years next after the close of the rebellion, and that the said Joseph Riley, deceased, did not return to the Cherokee Nation till some time in the 80's.

In view of the foregoing it is respectfully contended that the applicants in this consolidated case have

failed to establish by satisfactory evidence their right to Cherokee freedman citizenship, and under the rulings of the Department in the cases of Eliza Bryant, and others, supra., their applications for enrollment as Cherokee freedmen should be denied.

It is, therefore, respectfully requested that the Department reconsider this case and affirm the decision of the Commission to the Five Civilized Tribes, rendered ~~herein~~ on March 5, 1904, or, if after reconsideration, the Department is unable to grant this office's request, it is further requested that, in view of the fact that the testimony in this case was taken at a comparatively early period in the enrollment work, the record in said case be remanded for the purpose of permitting all parties at interest to introduce further evidence, which, no doubt, will result in producing a record absolutely conclusive, and from which a decision can be satisfactorily prepared.

In view of the fact that this office is perfectly familiar with the character and credibility of the three witnesses above named, together with that of several others

equally notorious, and is duty bound to take notice of the fact that their testimony is wholly unreliable, and in most cases absolutely worthless, it is respectfully recommended that the Cherokee Nation be not required to incur the needless expense of impeaching their testimony in cases where such witnesses testify.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

Incl. B 45

DEPARTMENT OF THE INTERIOR,

Office of the Assistant Attorney-General,
WASHINGTON.

J. R. W.
W. C. P.
F. W. C.

I.T.D
5726, 11070-1904.
17298-1906.

February 15, 1907.

The Secretary of the Interior.

Sir:

I received, by reference of January 17, 1907, for opinion, the communication of the Commissioner to the five civilized tribes in the applications of Ed Riley and others for enrolment as Cherokee freedmen. The Commission having denied those applicants, the Department on review of the records reversed that action, September 8, 1905. June 15, 1906, the Commissioner of his own motion, without a complaint or step by the action or its counsel for reconsideration or review of the departmental decision, volunteers as champion for the Cherokee Nation to obtain for it a relief that it does not ask, and filed a protest against the action of the department. The Commissioner states that:

The department has repeatedly ruled that the burden of proof is upon the applicants, and that they must show by satisfactory, clear, and convincing evidence that their right to Cherokee citizenship is perfect (citing eight decisions, none of which support his contention).

In view of the fact that the provisions of Article IX of the treaty of 1866 (August 11, --14 Stat., 799), were in a measure imposed upon the Cherokee Nation as a penalty for its conduct during the late rebellion, the justice of the above ruling become apparent, under the authority of these rulings,

it is that this office, for reasons set out below, begs leave to file its protest against the action of the Department in reversing said decision of the Commission to the Five Civilized Tribes, rendered March 5, 1904, wherein it was held that Ed Riley et al., doubtful cases, 696, 707, 708, 709, respectively, are not entitled to enrollment as Cherokee freedmen.

The Commissioner then refers to three of applicants' witnesses, John Landrum, Polly Nivens and L.D. Daniels, as being unreliable, "valueless in determining facts at issue in any case in which they testify", and gives short excerpts of testimony given by one or more of them in thirteen cases, in five of which each of these testified on behalf of the applicants, and the applications were notwithstanding denied. The Commissioner then concludes:

In view of the foregoing it is respectfully contended that the applicants in this consolidated case have failed to establish by satisfactory evidence their right to Cherokee freedman citizenship, and under the rulings of the Department, and others, supra, their applications for enrollment as Cherokee freedmen should be denied.

It is, therefore, respectfully requested that the Department reconsider this case and affirm the decision of the Commission to the Five Civilized Tribes, rendered herein on March 5, 1904, or, if after reconsideration the Department is unable to grant this office's request, it is further requested that, in view of the fact that the testimony in this case was taken at a comparatively early period in the enrollment work, the record in said case be remanded for the purpose of permitting all parties at interest to introduce further evidence, which, no doubt, will result in producing a record absolutely conclusive, and from which a decision can be satisfactorily prepared.

I have examined the eight departmental decisions cited

by the commissioner and none of them upholds so strenuous and rigid rule of proof of freedman's right as stated by the commissioner that the proof must be "satisfactory, clear, and convincing that their right..... is perfect." This is substantially that the proof must be "beyond reasonable doubt", a rule never applied, that I am aware, in any judicial proceedings except criminal prosecutions. I am of the opinion such requirement would work great injustice and hardship, where proof has to be made of the date of reversion to the domicile or origin after a lapse of forty years, when the majority of those then living have died and much of the evidence once available has been lost by death of witnesses and the infirmity of human memory.

It is true that applicants have the burden of proof, but the department has never established a rule as to the clearness, definiteness, cogency, and certainty of the proof more strict than in proceedings in civil and administrative causes, and I am of opinion it should not. I am unable to concur in what is apparently the commissioner's view of the degree of proof required, and it has not been sanctioned by the department in any of the cases cited. If it were sanctioned, it would be erroneous, and ought to be receded from. Article IX of the treaty of 1866 was the same rule adopted by the people of the United States in all the states and

Territories within the national sovereignty, not as a penalty, but as an act of justice and atonement for a crime of more than two centuries. If any change of the ordinary rules of proof is to be made, the lapse of time and eminently just character of Article IX would dictate liberality, rather than strictness in the proof required. It is well recognized rule of human life and conduct that reversion to the domicile or origin and to the allegiance of birth is easy -- is what is rather expected to occur, and legal presumptions are in its favor, not against it.

I am of opinion also that in absence of notice to the applicants or to their counsel of the contention of the commissioner, with opportunity to them to respond to it, it would be improper for the Department to take the case into consideration with view to reversing its former action.

I have carefully read the evidence, and it is clear that Joseph Riley was a Cherokee slave at the outbreak of the rebellion, once to a Cherokee named Riley -- from whom his name was probably taken -- and later to one by name of Foreman. Joseph Riley and his wife are dead. The applicants were born after 1866. There was a reversion of the parents to the allegiance and domicile or birth. The applicants were born in the nation and have always resided there. Evidence in the record justifies and supports the finding and judgment of the Department. The Cherokee Nation.

has not asked a reconsideration of the decision of September 8, 1905, and as the nation has been content with it so long, its application, if now made, would properly meet with little favor in view of the fact that the rolls must be closed by March 4, 1907, and favorable consideration of such application would amount to a denial of applicants' enrolment.

I am, therefore, of opinion that the decision made by the Department should not now be disturbed.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved February 15, 1907.

E. A. Hitchcock
Secretary.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE.

I.T.D. 3678-1907.

February 19, 1907.

L.R.S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory,

Sir:

There is inclosed a copy of an opinion of the Assistant Attorney-General for this Department, of February 15, 1907, approved the same day, in the matter of the application of Ed Riley, et al., to be enroled as Cherokee freedmen.

In accordance with said opinion the decision of the Department of September 8, 1905, reversing your decision relative to the applicants, is adhered to. You are accordingly authorized to enrol as Cherokee freedmen such applicants, viz: Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley (daughter of Richard Riley), and Fred Riley.

The papers in the case and copies of said opinion and this letter have been sent to the Indian Office.

Respectfully,

1 inc. and 10 for Ind. Of.

Thos Ryan,
First Assistant Secretary.

A.F. Mc.
2-19-07.

69Ks. jv. h. 54collect. COVT. 5:24p.m.

N. Washington, D.C., Feb. 19, 1907.

Commissioner to Five Tribes,

Muskogee, I.T.

Commissioner ordered to enroll Ed Riley, Mott Riley, Jessie Riley, Howard Riley, Annie Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley, and Fred Riley as Cherokee freedmen.

A. F. McGarr.

Cherokee Freedmen
D 696 et al.

Muskogee, Indian Territory, February 27, 1907

Starr & Patton,
Successors to Blue & Bulger,
Vinita, Indian Territory.

Gentlemen:

September 8, 1905, the Department reversed the decision of the Commission to the Five Civilized Tribes rejecting the applications for the enrollment of the applicants embraced in the consolidated Cherokee freedmen cases of Ed Riley et al. The Department further considered the case at the request of the Commissioner, and on February 19, 1907, in a letter addressed to this office, adhered to its decision of September 8, 1905, favorable to the applicants.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
D 696 et al.

Muskogee, Indian Territory , February 27, 1907

W. W. Hastings,

Attorney for Cherokee Nation?

Muskogee, Indian Territory.

Dear Sir:

September 8, 1906, the Department reversed the decision of the Commission to the Five Civilized Tribes rejecting the application for the enrollment of the applicants embraced in the consolidated Cherokee freedmen cases of Ed Riley et al. The Department further considered the case at the request of the Commissioner, and on February 19, 1907, in a letter addressed to this office, adhered to its decision of September 8, 1906, favorable to the applicants.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
D 707

Muskogee, Indian Territory, February 27, 1907

Sarah Flynn,

Hayden, Indian Territory.

Dear Madam:

You are advised that your application for the enrollment of yourself and children as Cherokee freedmen was granted by the Secretary of the Interior on February 19, 1907.

You will be advised when your names have been placed upon a schedule of Cherokee freedmen approved by the Secretary of the Interior.

Respectfully,

L M B

Commissioner

Secretary-2

on January 28, 1907 and approved by the Department's telegram of February 9, 1907. It is recommended that numbers be placed upon this schedule in consecutive order, by Mr. McGarr, the employe of my office now in Washington.

You are advised that the Cherokee Nation protests against the enrollment of the persons whose names appear upon this schedule, and its protest filed by its attorney February 23, 1907, is enclosed.

Respectfully,

Commissioner

Through the Commissioner of
Indian Affairs.

Encl. 3-56

Muskogee, Indian Territory, February 27, 1907

The Honorable,

Secretary of the Interior.

Sir:

February 19, 1907 (I.T.D. 3678-1907), the Department in accordance with an approved opinion of the Assistant Attorney General of February 15, 1907, ordered this office to enroll Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley and Fred Riley, as Cherokee Freedmen.

In accordance with such direction there is enclosed for Departmental approval a schedule containing the names of these citizens. It will be noted that no roll numbers have been given the persons whose names appear upon the schedule herewith transmitted. This action was taken in accordance with procedure reported by me to the Department

Cherokee
D 707

Muskogee, Indian Territory, March 15, 1907

Starr & Patten,

Vinita, Indian Territory.

Gentlemen:

As requested in your letter of March 4, 1907, there is enclosed a copy of the Department's decision of February 19, 1907, in the Cherokee freedman case of Ed Riley et al.. A copy of the Commissioner's decision in this case has heretofore been sent to Messrs. Blue & Bulger, former attorneys for these applicants, and your request to be furnished a copy of said decision can not therefore be complied with.

Respectfully,

L M B

Commissioner

encl. B-38

Cher Fr 1558

Trans. from Cher Fr D708

Cher Fr 1558

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHULSEA, I.T., JUNE 18th, 1901.

In the matter of the application of Richard Riley for the enrollment of himself and two children as Cherokee Freedmen; said Riley being sworn and examined by Commissioner T.B. Needles, testified as follows:

APPEARANCES:

Messrs. Mellette & Smith, for Applicants.
Mr. J. S. Davenport, for Cherokee Nation.

- Q What is your name? A Richard Riley.
Q How old are you? A 31.
Q What is your post office address? A Hayden.
Q What district do you live in? A Coowasecoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Two children.
Q What are the names of your children? A Willie, ten.
Q How old is Willie? A Ten.
Q The next child? A Mary.
Q How old is Mary? A Eight
Q Are you married? A Yes, sir.
Q What is your wife's name? A Sarah Riley.
Q Is she a citizen? A No, sir.
Q You don't apply for her? A No, sir.
Q Did you ever apply to be enrolled by any other Nation or tribe?
A No, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Upon any of the rolls of the Cherokee Nation? A Upon the Kern-Clifton.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and names of applicant not found thereon.

The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:

Page 165, #4077, Richard Riley, Tahlequah District.
Page 165, #4073, Willie Riley, Tahlequah District.
Page 165, #4074, Mary Riley, Tahlequah District.

- Q Are these children living at this time? A Yes, sir.
Q Living with you? A They ain't living right at present.
Q Where are they living? A They are in Kansas with their mother.
Q Do their mother live in Kansas? A No, sir, they were going to school up there and she was taken down the the small pox and hasn't returned yet.
Q Where were the children born? A Lightning.
Q In the Cherokee Nation? A Yes, sir.
Q What is the name of your father? A Joseph.
Q Is he living? A No, sir.
Q What is the name of your mother? A Mary.
Q Is she living? A No, sir.
Q Did you ever apply to be enrolled by any other Nation or tribe besides the Cherokees? A No, sir.

BY MR. MELLETTE:

- Q Are you a brother of Ed Riley, who applied to be enrolled here?
A Yes, sir.
Q How old are you? A 31.
Q Where were you born? A Born in the Territory I guess, what they say.
Q Whereabouts? A Tahlequah District.
Q Where were you living the first of your recollection? A I think it was Bluejacket.

Richard Riley.--2.

Q Where have you lived since that time? A All over the Territory, Gooseneck and down below Summit Station in the Cherokee Nation.

Q Have you lived in the Cherokee Nation all the time since you can remember? A Yes, sir.

BY MR. DAVENPORT:

Q What Summit Station have you been living in the Cherokee Nation?

A Near Summit down below, seven miles below Muskogee.

Q You don't mean to say that Summit is in the Cherokee Nation?

A No, sir, I was living in the Cherokee Nation.

Q What part of the Cherokee Nation were you living when you lived near Summit? A I don't know, down about two miles on the line.

Q On whose place were you living down there? A Cynthia Wallen.

Q How far have you lived from Henry Lowrey? A I don't know.

Q How long did you live down there? A About two years.

Q You have two children? A Yes, sir.

Q Ages ten and eight respectively? A Yes, sir.

Q What town in Kansas are they going to school? A Pittsburg.

Q How many years have they been going to school up at Pittsburg?

A That is the first school.

Q You sent your eight year old child and ten years old child away to Kansas to school? A Yes, sir.

Q Where have you been living for the last four years? A On Lightning Creek.

Q How long have you lived at Pittsburg? A Ain't lived there any, worked up there at different times.

Q Well, how long have you worked up there at any time?

A Six or eight months.

Q You kept house while you were up there? A Stayed with my mother-in-law.

Q Your wife and children have been living up there a good while?

A No, sir.

Q When did you come from Pittsburg last? A Last December.

Q Have you been living here continuously since that time?

A No, sir, went backwards and forwards.

Q You have been keeping house at Pittsburg, you and you wife?

A No, sir.

Q How long since you quit keeping house there? A I ain't been keeping house there for to quit.

Q You say you were living where when you first remember?

A Bluejacket I think.

Q You think? A Yes, sir.

Q Well, was it Bluejacket? A Yes, sir.

Q Where was your father living when you can first remember?

A Right there.

Q Bluejacket? A Yes, sir.

Q Did your father ever live at Bluejacket? A He did.

Q Do you remember of your father ever living at any other place besides Bluejacket? A Yes, sir, Fourteen Mile Creek.

Q You can't remember of him living there? A He moved back there

Q Near whose place did he live on Fourteen Mile Creek?

A I don't know. I didn't live down there at the time he was living there.

Q Where were you living when he was living there? A I was working on Gooseneck.

Q How long has your father been dead? A Two years.

Q Where did he live at the time he died? A Lightning Creek.

Q Where was your mother living at the time of your father's death?

A Bluejacket.

Q Did your mother die at Bluejacket? A No sir.

Richard Riley,--3.

- Q Where was she when she died? A Some place off where she was working.
- Q Your mother didn't stay at home then? A She stayed at home in and out.
- Q Don't you remember that your father was living at Emporia, Kansas, or Burlington? A No, I don't; he never lived there.
- Q You are sure of that? A I am sure of that.
- Q That your father and mother never lived in Emporia, Kansas, or Burlington? A Yes, sir.
- Q And it is a mistake if he testified that? A He never testified that.
- Q You are sure of that? A I am sure of that.

BY MR. MELLETTE:

- Q Now, Richard, you saw you went to Pittsburg to work several times?
- A Yes, sir.
- Q Your wife's mother lived up there? A Yes, sir.
- Q Never made it your home? A No, sir.
- Q How much time did you spend up there altogether? A I don't know, I could not tell.
- Q What work would you do up there? A Carry brick and dig coal.

BY MR. DAVENPORT:

- Q Your children were born up there? A No, sir.
- Q Neither one of them? A No, sir.
- BY MR. MELLETTE: Where were you born? A Lightning.
- Q Lightning, that is where? A Lightning Creek.
- Q Cherokee Nation? A Yes, sir.
- BY MR. DAVENPORT: How far do you live from the colored public school over there on Lightning Creek? A About two miles and a half.
- Q Then you send your children away to Pittsburg and pay for their schooling? A I don't have to pay for it; their grandmother live there.
- Q Where were you married? A Married in Kansas.
- Q What point? A Pittsburg.
- Q You say Mary was born where? A On Lightning Creek.
- Q And Will where? A Lightning Creek.
- Q Cherokee Nation? A Yes, sir; '91.

BY COM'R NEEDLES:

- Q Did you ever keep house in the Cherokee Nation? A Yes, sir.
- Q Where? A On Lightning Creek, down below district.
- Q What district did you live in when you were living with Martha?
- A Illinois I believe, maybe mistaken.
- Q These children you say were born in the Cherokee Nation?
- A Yes, sir.
- Q You were born in the Cherokee Nation? A Yes, sir, what they say, I wasn't present at the time, I didn't know anything if I was.
- Q Wasn't there? A No, sir.
- Q Anybody else there? A I don't know I suppose so.
- Q Have you any proof of your marriage to your wife?
- A Yes, sir.
- Q Is she a citizen? A No, sir.
- Q Well, what proof have you got? A That we lived together as man and wife.
- Q Were you ever married? A Yes, sir.
- Q By whom were you married? A By the Judge of Crawford Country, Kansas.

Richard Riley, et al.—4.

BY MR. NEEDLES:

- Q What year were you married? A '90, July 15th.
Q You lived with your wife ever since that time? A Yes, sir.

BY COM'R NEEDLES:

- Q Living with her now? A Yes, sir, only she is at home.
Q You have never separated? A No, sir.

COM'R NEEDLES: Richard Riley applies for the enrollment of himself and two children, Mary and Will. His name is not identified upon the authenticated roll of 1890 or census roll of 1896. He and his two children are found upon the Kern-Clifton roll according to the page and number of the roll as indicated in the testimony. He avers that his wife is named Sarah, a non-citizen, and that he married her in the State of Kansas. She is the mother of the two children for whom he applies. It will be necessary for him to make satisfactory proof of his marriage. He avers that he is a brother of Ed Riley, who is listed for enrollment upon Doubtful card #696, and the attorney for the applicant prays that the testimony in said case be made part of the record in the case at bar. It will be done and a copy of the testimony will be filed herewith. Said Richard Riley makes satisfactory proof as to his residence and he and his two children, as enumerated herein, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. He will be duly notified by mail of the decision of the Commission when arrived at.

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J.O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J.O. Rosson

Subscribed and sworn to before me this 26th day of June, 1901.

(Signed) T.B. Needles.

Commissioner.

B

70708

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 12 1901

[Signature]
ACTR

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date JUN 12 1901Post Office Hayden, I. T.District 10001. Name Richard KingAge 31

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children?

2.

Name

Year

Page

No.

Dist.

10

3.

Name

Year

Page

No.

Dist.

8

5.

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Page

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12.

Year

Page

No.

Dist.

Application made by W. H. KingStenographer J. O. Ross et al.X 100. 0696Proof of marriage to be submittedRepresented by Mellette and Smith, United, I. T.

To be filed with Case of Richard Riley, C. F. D.#708.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
KHELSEA, I.T., JUNE 11, 1901.

In the matter of the application of Ed Riley for the enrollment of himself and four children as Cherokee Freedmen, and for his wife as an intermarried Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, testified as follows:

Appearances:

Mr. Mellette, Of Mellette & Smith, for applicant;
Mr. Hastings, for the Cherokee Nation.

- Q Give me your name? A Ed Riley.
Q How old are you? A 33.
Q What is your post office? A Hayden.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A yes, sir.
Q Do you want to apply for anybody besides yourself? A yes, sir, I have four children.
Q Have you a wife you want to apply for? A No, sir, my wife is a state woman.
Q How long since you married your wife? A I guess it has been about eleven years.
Com'r: You had better apply for her, she may have some rights.
Q How long have you lived in the Cherokee Nation? A All my life.
Q You were born in the Nation? A yes, sir.
Q And lived here always? A Yes, sir.
Q Give me the name of your father? A Joseph Riley.
Q Is he dead? A Yes, sir.
Q How long has he been dead? A Since January '99, I believe, about two years.
Q Give me the name of your mother? A Mary Riley.
Q Is she dead? A Yes, sir.
Q How long has she been dead? A ~~Since January '99~~ She has been dead I guess about 12 or 13 years.
Q Was your father a Cherokee Freedman? A Yes, sir.
Q Was your mother a Cherokee freedman? A yes, sir.
Q You think they were both slaves in the Cherokee nation when the war broke out? A That's what they say.
Q Who is it that you understood to be your father's owner?
A John Riley.
Q Was he a well known citizen of the Cherokee Nation?
A I suppose he was, that's my understanding.
Q Who was it your mother said she belonged to? A Bob Parris.
Q Give me the name of your wife? A Mary Riley.
Q How old is your wife? A Thirty.
Q You say you and she were married some eleven years ago?
A Yes, sir.
Q Have you a certificate of marriage?
A No, sir, I haven't.
Q Did a preacher marry you? A Yes, sir.
Q What preacher? A W. P. Jones.
Q Is he living? A No, sir.
Q Were you ever married except to this woman? A No, sir.
Q Was she ever married except to you? A Not to my knowing.
Q Where is she? A She lives out on Lightning Creek.
Q Is she out at home now? A Yes, sir.
Q How long did you know of her before you married her?
A About eight months.
Q You never heard of her having been married? A No, sir.
Q She passed as an unmarried woman? A Yes, sir.
Q Where were her people from. A Pennsylvania.
Q How long had they been in the Territory? A About two years.
Q Did you marry her in the Territory? A Yes, sir.

- Q Give me the names of your children? A Mat Riley.
Q How old is Mat? A Mat is nine years old.
Q Next child? A Jessie Riley.
Q Boy or a girl? A It is a girl.
Q How old is Jessie? A Seven years old.
Q Next child? A Howard.
Q How old is Howard? A 3 years old.
Q Next child? A Annie.
Q How old is Anne? A She isn't a year old, yet, she is about eight months I guess, or nine.
Q Are these children all living now? A All but one.
Q I mean these four? A Yes, sir, them four are living.
1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicants not identified thereon.

- Q Did you draw strip money? A yes, sir.
Q What district were you in when you drew your strip money?
A We were in Tahlequah district when we enrolled with the Kerns Clifton roll.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 165, #4076, Ed Riley, Tahlequah district;
page 165, #4068, Matt Riley, Tahlequah district;
"In the family of Joseph Riley, three years old."

- Q Was there any Mat except your child? A Not in that family.
Q Did your father have a child named Mat? A No, sir.
Q This Mat is with Joseph Riley, that's your dead father?
A Yes, sir.
Q Was the child living with your father? A No, sir, it wasn't living with my father, my father was living with me.
Q Your father was living with you? A Yes, sir.
Q You only drew for Mat? A Drew for Mat and one they called Fred.
Q Fred is dead? A Yes, sir.
Q Who is there here who knows about you and your wife being married?
A My brother knows it I guess.

- RICHARD RILEY, being sworn and examined by Com'r Breckinridge, testified as follows:
Q Give your name. A Richard Riley
Q How old are you? A 31.
Q What is your post office? A Hayden.
Q Are you a brother of the applicant here? A Yes, sir.
Q Is your brother married? A Yes, sir.
Q How long has he been married? A About 11 years.
Q What is the name of his wife? A Mary.
Q What was her name when he married her? A Matthew.
Q What was the name of her father? A Sam Matthew.
Q What was the name of her mother? A Lizzie, I believe.
Q Was your brother ever married except to this woman?
A No, sir.
Q How long did you know her before she married your brother?
A About four or five months.
Q Did you ever hear of her being married before she married him?
A No, sir.

The 1880 authenticated roll of citizens of the Cherokee Nation examined for Joseph and Mary Riley, and names not found thereon.

APPLICANT, ED RILEY, re-called, and further examined, by Com'r Breckinridge:

Q How comes that you are not on the roll of 1880?

A I couldn't tell.

Q Whether your father or your mother are on that roll?

A No, sir.

Q Did you apply to get on that roll? A No, sir, I was little, don't remember anything about that.

By Mr. Mellette: How old are you? A 33.

Q Where have you lived since you can remember?

A Fourteen Mile Creek.

Q In the Cherokee Nation? A Yes, sir.

Q How many brothers have you? A I have two brothers here.

Q How many brothers have you in all? A I think they said there was three or four.

Q I mean alive? A There's four.

Q Give me the names of them? A Richard.

Q How old is he? A About 31.

Q Where does he live? A He lives out on Lightning Creek.

Q Now the next one? A Fred Riley. He lives on Lightning Creek, he is about 20 years old.

Q Give me the name of the next one? A Thomas Harling, he is my half brother.

Q Who was his father? A My father was said to be his father.

Q By Com'r Breckinridge: Who was his mother? A I don't know.

Q Mr. Mellette: Now give me your other brother, named Riley?

A Ed Riley.

Q He is not your brother is he? A I give in four, Fred, Rich, a and Ed and Thomas Harling.

Q Have you no sister? A One sister.

Q What is her name? A Sarah Flynn.

Q How old is she? A She is older than me.

By Com'r Breckinridge:

Q Any other sister besides Sarah? A That's all.

By Hastings: Where is your wife now, A Out on Lightning Creek.

Q Where is your post office? A Hayden.

Q How long have you been living at Hayden? A Since 1896, the fall.

Q Where did you come from when you moved to Hayden? A Fourteen Mile Creek.

Q You come direct from Fourteen Mile Creek to Hayden?

A Yes, sir.

Q Who were your neighbors on Fourteen Mile Creek? A Jim Parris, Solomon Harlin, Bass Harlin, David Parris and Tom Beavert.

Q How far did you live from Tom Beavert? A I guess about a mile, west.

Q How long did you live there? A I guess I lived there off and on for the last 18 or 20 years.

Q How long did you live there continuously all the time, right there? A When I was about 12 years old I remember moving over there to Timbered Hill, and then we stayed there quite a while.

Q What Timbered Hill? A Bluejacket.

Q How far from Bluejacket? A About I guess two or three miles west.

Q How long did you live at Timbered Hill, near Bluejacket?

A I guess 7 or 8 years, maybe.

Q Then you went from Timbered Hill where? A Back down in the lower country.

Q When you were first old enough to remember you were living on Fourteen mile Creek? A Yes, sir.

Q And you were living out there, as you remember by Bass Harlin?

A Yes, sir.

Q Did you know Columbus Lasley out there? A I don't remember him.

Q You know Nelse Lowery? A Slightly.

Q You know Arch Carter? A No, sir.

Q You know Andy Carter? A No, sir.

Q You ever in Kansas? A No, sir.

Q What town in Kansas? A No, sir, I said.
Q Who did you say married you? A Man by the name of W. P. JONES, Minister.
Q Your wife was state raised? A Yes, sir.
Q Where were you married to her? A Married up about Timbered Hill.

N. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this June 21, 1901.

(Signed) T. B. Needles,
Commissioner.

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ED RILEY application continued; former portion reported by Stenographer M. D. Green.

APPEARANCES:

Messrs. Mellette & Smith for Applicants;
Mr. W. W. Hastings, for Cherokee Nation.

JOHN LANDRUM, being duly sworn by Commissioner C. R. Breckinridge testified as follows: BY MR. MELLETTE:

Q What is your name. A John Landrum.
Q How old are you? A 59.
Q Where do you live? A I live up here on Lightning Creek.
Q Cherokee Nation? A Yes, sir.
Q Are you a recognized Freedman citizen of the Cherokee Nation?
A I am.
Q On the roll of 1880? A Yes, sir.
Q Do you know the applicant here, Ed Riley? A Yes, sir.
Q Do you know Joseph Riley, his father? A Yes, sir.
Q Did you know where he lived at the beginning of the war?
A No, sir; beginning of the war; well I knowed he belonged to old man Riley.
Q You knew he belonged to old man Riley? A Yes, sir.
Q What Riley was that? A Looney Riley.
Q Where was that; where did old man Looney Riley live?
A He lived somewhere about Park Hill.
Q In what Nation? A In the Cherokee Nation.
Q Was he a Cherokee citizen? A yes, sir.
Q Well, now, did you know Mary Riley, this boy's mother?
Q I wasn't quite acquainted with her, I seen her once or twice.
Q Do you remember what her name was before she married Joseph?
A No, sir, I don't.
Q Well, now, do you know where Joseph Riley went during the war?
A Went to Kansas.
Q Do you know when he returned to the Cherokee Nation after the war? A I seen him when he was coming home.
Q When was that? A That was in the winter of '66 I seed him on Lightning Creek, Between Lewis' and my place; on Lightning Creek, I had just got here.
Q Where? A Between Lewis Right and my place on Lightning Creek, I met him coming this way; he said he was coming to his old home.
Q That was down in Tahlequah district? A Yes, sir.

Q Well, now was that before Christmas or after Christmas in 1866?
A It was just a little after Christmas.

Q How long after Christmas? A It was about between three and four weeks.

Q Well, now, did you see him any more? A I seen him ten years after that as near as I can remember.

Q Where? A Seen him on Fourteen Mile Creek.

Q In what Nation? A In the Cherokee.

Q Well, after you saw him on Fourteen Mile Creek did you ever see him any more? A Not till he moved up here.

Q Well when did he move up here? A It has been between three or four years; don't know if its that long.

By Mr. Hastings: When did Joe die? A He died here about, can't remember; well it aint been, it has been over a year; maybe two years, maybe going on two years, aint't been dead so awful long.

Q Where did you live before the war? A I lived up on Cabin Creek.

Q How far was that from Vinita? A Well, about two or three miles south of Vinita.

Q That was when the war come up? A That is before the war you are asking me?

Q Yes. A That is before the war.

Q Where did Joe Riley live when the war come up?

A He lived away down below.

Q Well about how far from you? A I guess they called it; they called it about, well they called it 70 miles.

Q Well where from what direction and how far from Tahlequah did Joe Riley live? A I think it was southwest from Tahlequah, kinda southwest as near as I can remember.

Q Are you positive as to what Joe Owners' name was? A They called him Riley, that is all I know about it.

Q When was the last time you were down there?

A Just a little before the war.

Q How long before the war? A Well about, not quite a year.

Q Where did you see this Joe Riley, the father of this applicant, last before the war? A There is where I saw him; there where I am telling you now.

Q At Riley's? A Yes, sir, after that they moved I suppose up here on Verdigris; where is where old man Riley died.

Q On the Verdigris? A Yes, sir.

Q Did he move up therebefore the war? A Yes, sir, I suppose he did; he had a ranch there.

Q Well were you present when Joe Riley was before the Kern-Clifton Commission, five years ago? A Yes, sir.

Q You were present were you? A Yes, sir, I seed him.

Q Did you hear Joe testify at that time as to his owner was?

A Not at that time.

Q Did he know who it was? A He must of; the old man was blind you know we had to lead him about here and there and take him by the hand and lead him about.

Q If Joe Riley testified that Stephen Foreman was his owner before the war came up he was mistaken? A He may have, told me he was from where I seed him and I good acquainted with him, he was living with old man Riley.

Q What were you doing down at Riley's? A I was with Aaron Martin, My Master, he was buying up yearlings and one thing and another.

Q What kind of a house did old man Riley live in?

A Double log house.

Q About how far from town? A I could not tell you just how far.

Q What kind of a family did Riley have? A They must have been Cherokees.

Q How many children? A Oh, I could not tell you how many, there was young boys there.

Q How long did yo stay there? A I never stayed but one or two days.

Q You don't remember about how long before the war that was?

A That was a good while before the war, I was quite-a small young

fellow.

Q Well, if Joe Riley testified under oath before the Commission that he lived with Stephen Foreman down there during the war and continued to live for six years after the war at Tahlequah, that is a mistake about it? A I guess, I don't know; I can't tell you anything about that part of it.

Q You don't know about that? A No, sir.

Q Well he could not have been living with Stephen Foreman down at Tahlequah and you see him coming from Kansas at one and the same time, could he? A That way he could not; but here I am telling you the truth, I saw him that winter in '66, he says I am going home; where he come from I could not tell you; I saw him there and that is the God's truth.

Q Was he blind then? A No, sir.

Q Have a wagon? A Yes, sir, had an old shackling wagon.

Q Had his wife along with him? A No sir.

Q Well, who was along with him, this boy? A He had a boy with him, but I could not tell you which one of the boys he had a small boy with him.

Q You could not tell whether it was Fred or Ed? A No, sir, I don't know; I ain't going to tell something I don't know; if he is the boy I don't know.

Q You don't know where he was married? A No, sir.

Q Where were you living when you saw him? A On Lightning Creek; just right across the Creek from me up on top of the hill where I met him coming towards Vinita, Vinita wasn't built then, wasn't started at that time, and there wasn't much of a road, just a path.

Q You have got a good memory about dates? A No, I could not tell you anything about the dates.

Q You just met this fellow out in the road? A Yes, sir.

Q Just passed and went on? A Yes, sir, he never stopped to my knowing, didn't stay no time; I just met him on the road he he knowed me, hello my boy, isn't this Jack, and I said this is and he says I am trying to get back to my old home.

Q He didn't come to your house and get something to eat?

A Nol sir, he didn't.

Q ~~Next~~ just had a shackling wagon? A Yes, sir, and some old horses, they was very poor; if he got there with them I could not tell you.

Q Well, who else was living in that neighborhood at that time?

A All them Wright boys.

Q Old man Hayden living there at that time? A No, sir.

Q Wasn't keeping a store up there? A N, sir.

Q Can't you remember anybody else that you met in that year anywhere just passing on the road? A Why there is several of them.

Q Who else did you meet on the road that year? A I could not tell you the names exactly I met several backwards and forth you know.

Q What year did the Wallace Court sit and make a roll?

A I couldn't tell you the date.

Q What year did you marry? A Now, for me to tell you the truth, I could not tell you that; I married up in the States.

Q What year was the Kern-Clifton Court sitting and hearing testimony like it is now? A Well that is out of my raising.

Q You are a little off on dates aren't you Jack? A Now, let me tell you, a man that was raised like I was don't can't tell nothing, Judge, about it; we just have to keep it in our head and it slips out of our remembrances.

Q How long have you seen this boy on Big Creek?

A ~~Well, you know he come from Burlington, Kansas, down there?~~ It has not been long, about ten or 12 years.

Q Well, you knew he come from Burlington, Kansas, down there?

Q No, sir, he say have come from there, I don't know.

Q You never heard him say he come from Peoria? A No, sir.

Q What were you doing when you saw his father?

A I was going home.

Q Well, had you put in a crop that year? A That year following that, year, that spring put in a little small patch.

Q You had a field opened up when you saw him?

A Yes, sir, just a little patch.

Q You had a house built? A Yes, sir, little old log house, wooden chiney.

Q You didn't say nothing about meeting him five years ago when the Kern Clifton Commission sat did you? A Yes, I did; after that I did; he got to inquiring, Fred, this younger brother; he got to taking about it and I said I know him.

Q Well, before the Court? A No, sir, I didn't tell it.

Q They were hunting up witnesses to come in before the Court?

A I don't know, I guess they was.

Q They were hanging witnesses to come up like they are now to prove these facts? A I guess they did.

Q You said you were present when he testified and you never said that he stayed at Stephen Foreman's all during the war and six years afterwards? A No, w let me tell you I was on the ground just like I am now.

Q You don't claim to be in the room? A No, sir, I was just there on the ground like I am now.

By Mr. Breckinridge: Where were you living at the time you claim to have met Joseph Riley in 1866a A On Lightning Creek.

Q Where had you been when you met Joseph Riley? A I had been to Lewis Wright's my neighbor's, and I was going back home.

Q What direction did Lewis Wright live from you? A North, I lived South.

POLLY NIVENS, being sworn and examined by Commissioner

C. R. Breckinridge, testified as follows: BY MR. MELLETTTE:

Q What is your name? A Polly Nivens.

Q How old are you? A 56.

Q Where do you live, Polly? A Fort Gibson.

Q Do you know this applicant, Ed Riley? A Yes, sir.

Q How long have you known him? A Just know him since after peace was made.

Q Now, do you know his father, Joseph Riley? A Yes, sir.

Q When did you know him? A I got acquainted with him after peace was made at Fort Gibson.

Q Now do you know what year it was you saw him there?

A Yes, sir, it was just after peace was made when the refugees come in there, I was working there.

Q The first year after peace was made you saw Joseph Riley there at Fort Gibson? A Yes, sir.

Q Where did he live after that? A After he left Fort Gibson?

Q Yes. A I don't know, sir.

Q How long did he stay around there? A I saw him there about the middle of the summer, he was a preacher and living right up on the hill and pread nearly every night in the summer.

Q No, w, do you know anything about him after he left Fort Gibson about where he went to? A He to, d us at the Church, he stated he was going to leave and some of the members says where are you going Uncle Joe and he said I was going to move on Fourteen Mile Creek.

Q How far is Fourteen Mile Creek from Fort Gibson?

A I don't know.

Q You didn't know him after that? A No, sir.

Q Well, did y-u ever see him any more after that?

A No, sir, I never seen him any more after he left Fort Gibson.

BY W. W. Hastings: He was living there at that time?

A Yes, sir.

Q Living there with his wife? A Yes, sir, there was an old lady with him.

Q What was his wife's name? A I don't know, just called her Mrs. Riley.

Q How many children had he there at that time? A He had two.

Q Did you see this boy? A I saw this boy and a girl.
Q How long did he stay in Fort Gibson? A He stayed until along about the last of the fall.
Q Two or three months? A Yes, sir, or maybe a little longer.
Q You remember distinctly seeing him there in the summer time?
A Yes, sir.
Q And they stayed from the summer until the fall?
A Fall, along the last of the fall.
Q And he and his wife there together? A Yes, sir.
Q And this boy, the applicant? A Yes, sir, that one there.
Q What is her name? A Sarah we called her; I don't know what she is going by now.
Q What her name Sarah Riley? A Yes, sir.
Q You remember these two children? A Yes, sir, I don't know nothing about the youngest one.
Q Mr. S. Nivens, I believe you never did see them after that fall?
A No, sir, I stayed in town and they lived up on the Creek.
Q You lived near Fort Gibson? A Yes, sir, I lived right there close to Fort Gibson all my life.
Q And you have lived there ever since? A Yes, sir.
Q Now, you feel positive that this was the next year you say after peace? A Was the first year after peace, when the refugees was refugeeing in, all coming in and he was living on the hill in front of Conong Vann.
Q About how far from Conong Vann? A I don't know, there was a lot of old houses up there.
Q And he had his wife with him and these two children?
A Yes, sir.
Q You remember that? A Yes, sir, I remember that.
Q You know that Ed was one of them? A Yes, sir/
Q And this girl was the other? A Yes, sir, and Ed the other.
Q You recognize the applicant as being one of them?
A Yes, sir.
Q You are positive about that? A Yes, sir.

BY COM'R BRECKINRIDGE:

Q How old were the children at that time? A I could not tell you; they were good bit children, I don't know the age. I would go to church and didn't inquire about that.
Q Which seemed to be the older the boy or girl? A I don't know, the girl was the biggest.
Q Was she a nearly grown girl? A She was about that high (indicating.)
Q About ten years old? A I don't know, she may be.
Q The girl was larger than the boy? A Yes, sir.
Q That was the first time you saw Joseph and his wife after the war? A Yes, sir, saw them at church.
Q There when he and his wife and these two children were together?
A Yes, sir, there may have been more there I didn't see them.

L. D. DANIELS, being sworn by Commissioner C. R. Breckinridge, testified as follows: By Mr. Mellette:

Q What is your name? A L. D. Daniels, Sir.
Q What is your age? A 56.
Q Where do you live? A Claremore is my post office, I live in the Cherokee Nation.
Q Are you a Freedman citizen of the Cherokee Nation? A Yes, sir.
Q on the roll of 1880? A Yes, sir, on all of them.
Q Do you know this applicant here? A Yes, sir.
Q Did you know his father, Joseph Riley? A Yes, sir, I did.
Q Where did you know him? A I got acquainted with him at Fort Gibson, sir.
Q Was that before the war or after the war? A That was about December, 1866.
Q You saw him there at Fort Gibson? A I seen him at Gibson there.
Q How long did he live at Fort Gibson? A He was not living there

at that time; he told me that he come from Fourteen Mile Creek, said he had stoppee up there.

Q Well, now, how much did you continue to see him after that?

A Well he stopped there with Ervin Vann, I seen him once or twice, maybe two or three times.

Q What became of him after that? A I don't know, unless he went up to Fourteen Mile Creek where he told me he was living at.

Q Did you ever know him after that? A Yes, sir.

Q Where? A I met him on the Verdigris river at John Riley's.

Q When was that? A That was in, I believe it was in '83.

Q Was John Riley a relative of his? A No, sir, so e of his old former owner's, John Riley told me, I stopped there to dinner and John Riley told me here is the old man that owns him.

Q John Riley was a Cherokee Indian? A Yes, sir.

Q Where is he now? A He is dead.

Q You didn't know this Joseph Riley before the war? A No, sir.

By MR. Hastings: Mr. Daniels, what was Joseph Riley doing down to Fort Gibson when you knew him after the war? A He was there to Ervin Vann's when I seen him.

Q What was his occupation, A B He preached once or twice to the church house there.

Q That was in December was it? A That was in the latter part of November or December, it was pretty cold.

Q Did you see his family? A No, sir.

Q Did you know his wife? A No, sir, I didn't get acquainted with her.

Q You don't know who he married then? A No, I don't know who he married at that time.

Q Did you see the applicant at that time? A No, I never seen him at that time, and I never got acquainted with them until I met Joe Riley again over there about six years ago when he brought his children up and showed me his family.

Q About six years ago you saw him? A Yes, I think it was in '96.

Q You never were at Joe Riley's place until six years ago?

A Yes, sir.

Q That is all? A Yes, sir.

Q Polly Nivens living down there about that time was she?

A Yes, sir, living right in Fort Gibson.

Q You remember seeing her about that time? A Polly I seen her every day I reckon.

ED RILEY, the applicant, recalled: BY MR. MELLETTE:

Q What was your half brother's name you give in a while ago?

A Thomas Harlin.

Q How old is he? A Died, I don't know, he is a grey headed man, I don't know his age; he is an old man.

Q Was he your father's child? A That is what was said, father always said he was his son.

Q Well, where has he lived since you remember? Who is that?

Q Thomas Harlin? A Down on Fourteen Mile Creek.

Q Did he live with you? A No, sir.

Q At no time? A No, sir.

Q How long did you live on Fourteen Mile Creek?

A I guess all of about 20 years.

Q About 20 years down on Fourteen Mile Creek? A Yes, sir.

Q Well where did this Thomas Harlin live the first you knew of him?

A He lived over on the hill, a little south of father's.

Mr. Mellette: I would like to see if Thomas Harlin is on the 1880 roll, Mr. Commissioner.

Mr. Hastings: He is not in the case and he does not claim through him.

Q Now, Boss Harlin, you say he is a son of Thomas Harlin? A No, sir, he is a brother of another side I think; brother on their mother's side.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of Thomas Harlin found thereon, page 768, #1020, 36 years of age, Tahlequah district; page 768, #1022, John Harlin, Tahlequah district, 12 years of age.

By Com'r Breckinridge: Is that Tom Harlin's oldest child (meaning the above enrollment of John Harlin)? A I don't know whether he is the oldest one of his children.

DARCUS RILEY, being sworn and examined by Commissioner C. R. Breckinridge, testified as follows:

Q Give your name? A Darcus Riley.

By Mr. Mellette: How old are you? A I am 78 years old.

Q Are you a Freedman citizen of the Cherokee Nation? A I am.

Q On the 1880 roll? A Yes, sir.

Q Do you know Joseph Riley, the father of this applicant?

A I have knowed him all my days, I tell you the truth I knowed him all my days.

Q To whom did he belong A Old John Riley.

Q Where? A Close to park Hill.

Q Was Riley a Cherokee? A Indian.

Q Where did you live at that time? A At that time I lived in Goings snake where I knowed him, in Goings snake district.

Q Did you marry Joseph Riley at one time? A Yes, sir, I lived with him since the war, since my main husband died, Harry Buffington; well this present husband of course he was my husband while I lived with him, he is dead.

Q Can you think how long after the war it was you married Joseph Riley? A No, sir, I could not wished I could.

Q Where did you marry him? A Married him on Fourteen Mile Creek.

Q How long did you live with him? A I lived with him five or six years.

Q Did you separate? A No, sir, we didn't separate, but he got sick and blind and I was too old to take care of him and I went to my children and he went to his.

Q His children came after him and you went to your children? A Yes, sir.

By Mr. Hastings: Auntie, the first time you ever saw him you fell in love with him? A I loved him or I would not have married him.

Q That is a case of love at first sight was it? (No response.)

Q You never had seen him until that time, until you went in love with him? A I told you I seed him all my days, I knowed him when he was a slave of old John Riley.

Q You are positive of that? A Yes, sir.

Q To whom did you belong before the war? A I never did belong to but one man I belonged to old man Bushyhead and I bought myself from them.

Q You lived up about Cincinnattie, Arkansas? A Yes, sir, lived up there in Goings snake.

Q And this man Riley lived about 35 or 40 miles? A Yes, sir, that was nothing for me.

Q Well, when were you down to Tahlequah first; when was the first time you ever saw the town? A Eh, I have been to Tahlequah that I can't tell you how often I have been there.

Q Well, before the war? A That is what I am telling you.

Q You were there before the war? A Yes sir, been to the Seminary to see my young Mistress that was going to school.

Q Where was the seminary? A You know where it was, out by Park Hill.

Q How far did Riley live from the Seminary? A Riley lived a little while from Stephen Foreman.

- Q You go by the name of Darsus Buffington don't you?
A Yes, sir, that is my name, I married a man by the name.
Q You were married to Joe Riley? A Yes, sir.
Q Lawfully? A Yes, sir, by a preacher.
Q Aunt, you draw a pension? A Yes, sir.
Q You are drawing it as a widow of a Buffington?
A No, sir, I ain't drawing his pension because I married and after that I was the nurse for the soldiers, that is what I am getting my pension for.
Q As a nurse? A Yes, sir, as a nurse for the hospital.
Q And not as a widow of your husband Buffington? A No, sir, I could not get that.
Q Well, how long was it before you saw him after the war until you married him? A That here Joe Riley, he went down there before they made this here treaty.
Q You saw him down there? A Yes, sir.
Q Before the treaty was made? A Yes, sir, he come down; he heard they sent after all the negroes to come in and be in time and he was in time for he met Mr. Buffington and Mr. Buffington told me well My Uncle Joe you are in time and so come back and tend to your business.
Q Well, how do you know Mr. Buffington met him?
A I have no right to believe my husband lied.
Q You didn't know that Mr. Buffington was in California at that time? A No, sir, I know when he come from Tahlequah after his brother was killed he came right home.
Q Well, now, I am trying to get at about how many years before you married Joe Riley was it you saw him there? A It was a good while because my husband was living at that time.
Q Well, was this boy with him when you saw him first?
A No, sir; he never brought him down until after my husband died. He had been dead about eight or ten years.
Q And he never brought this boy back until then? A No, sir, they brought him back before that and had him staying at Joe Roger's and had him there going to school.
Q Well, about how big a boy was he when he first come down there?
A I can't tell that, he was up about so. (Indianacting.)
Q Did he have brothers and sisters at that time? A Yes, sir; they are all older than he is.
Q He is the baby? A Yes, sir.
Q How long did he stay down there on Fourteen Mile Creek?
A I saw I can't tell you.
Q Did he stay there three years? A Yes, sir, longer.
Q Six, five or six? A Yes, sir.
Q Well how long after they have the cholera down there before you saw Joe Riley? A It was pretty much at the time.
Q About the time they had the cholera down there?
A Yes, sir, I know they had the cholera down there; they had the cholera down there when we was in camp and afterwards had the cholera down there.
Q Where did his first wife die? A I can't tell you that neither.
Q Did you ever see his first wife? A I was just as well acquainted with her as I was this boy.
Q What was her name? A Her name was Mary Paris.
Q You don't know where she died? A No, sir, I don't.
Q Was any of these children by his first wife born down there on Fourteen Mile Creek? A No, sir, I don't think they were.
Q They were all born before he came down there? A Yes, sir.
Q How long did Joe Riley stay around there when you first saw him? A Well he had a son down there was Tom Harlin.
Q And the rest of the family wasn't down there? A I reckon they was.
Q Were they staying with Tom too? A Yes, all was staying with Tom.
Q That was after the boy was up some size? A He was a small boy.
Q Five or six years of age? A Yes, sir.
Q Was that the first time you ever saw him when he was with them?

A Yes, sir, the first time I saw him.

Q Was that the first time you saw Joe Riley when this boy was staying with Tom Harlin? A Gentleman I told you I knowed him all my days.

Q I mean after the war? A Yes, sir, that is the first time.

Q That is the first time you saw Joe Riley after the war?

A Yes, sir.

Q Was when this boy was staying with Tom Harlin? A Yes, sir.

Q you are positive about that? A I am positive about everything I tell you.

Q Where were his brothers staying at that time? A Up about Vinita somewhere about there.

Q That is when you first saw Joe Riley after the war, not before the war, his three children were up there about Vinita?

A Yes, sir; when I first saw Joe Riley after the war this boy was down on Fourteen Mile Creek.

Q That is where this boy was then? A Yes, sir, he was going to school there.

Q That was near your home was it? A Yes, sir, it was.

Q You are positive about that are you? A I am positive about everything I tell you.

Q And this boy was five or six years of age? A He must have been that, he was small.

By Mr. Mellette: Which is the older child? A Of these children?

Q Yes? A Sarah is the oldest one.

COM'R BRECKINRIDGE: The applicant applies for the enrollment of himself, his wife and four children. The applicant is identified on the Kern-Clifton but not upon the roll of 1880 or 1896. He claims to have lived in the Cherokee Nation all his life. Neither his father or mother are identified on the 1880 roll, the former being dead a little over a year, and the latter some 12 years. He states that both were slaves in the Cherokee Nation at the time of the Civil War and that seems to be reasonably established. The time of their return, however, is not so well established. The testimony is conflicting, but the weight of it indicates that they were not identified in the Cherokee Nation until some year after the period required in the treaty of 1866. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of his testimony indicated. The applicant's wife is a state woman. He states that he was never married previous to his marriage to her, and he states that she was never previous to her marriage to him. It is established that they were married some 11 years ago, and that they have lived together ever since as husband and wife. She will now be listed for enrollment as a Cherokee Freedman by intermarriage on a doubtful card and it will be necessary for her in person to give testimony in regard to any previous marriage that she may have had.

As for the four children, the oldest one, Mat Riley, is identified upon the Kern-Clifton roll. This child is now living and it will be listed for enrollment as a Cherokee Freedman on a doubtful card to await the determination of the status of his father, and it may be to await evidence as to whether his mother was ever previously married, though little doubt is entertained at this time that she was married. The remaining three children are not upon any roll. They will be listed for enrollment at this time as Cherokee Freedmen on a doubtful card and the applicant is desired to supply the Commission with certificates of their birth. They are all said to be living at this time. The final decision of the Commission will be made known to the applicant at his post office in regard to these applications.

COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR

FILED
JUN 21 1901

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 25th day of June, 1901.

(Signed.) T. B. Needles,
Commissioner.

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J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subscribed and sworn to before me this 17th of August, 1901.

T. B. Needles
Commissioner.

Subscribed and sworn to before me this 17th of August, 1901.

scrib of the testimony and proceedings in the above case.

copy and that same is a true and complete copy of the original testimony of the Commission to the Five Civilized Tribes he made the foregoing

1. O. Reason, being duly sworn; says that as stenographer to

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(Signed.) T. B. Needles,
Commissioner.

Subscribed and sworn to before me this 25th day of June, 1901.

(Signed) J. O. Reason.

Notes thereof.

foregoing is a true and complete transcript of his stenographic

recorded the testimony and proceedings in this case, and that the

referred to the Commission to the Five Civilized Tribes he correctly

1. O. Reason, being first duly sworn, states that as stenog-

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 21 1901

FD708

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 1901.

Given under my hand this.....
day..... A. D. 1901.

Marshal for Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the
day of.....

SEP 18 1901

Melville Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the..... day of..... A.D. 1901

Subscribed and sworn to before me
this..... day of..... A.D. 1901.

TO THE CLERK OF THE DISTRICT COURT
AT THE CITY OF OKLAHOMA

FILED
SEP 20 1901

[Signature]
ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF The application of Richard Riley
for enrollment as a Cherokee Freedman:

Case No. F. D. 708

To Richard Riley or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Fort Gibson, I. T. Indian Territory, on the following dates, to-wit: Sept. 19th at 8 o'clock A. M. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP day of SEP, 1901.

L. B. B.
W. W. Hastings
J. S. Davenport
Attorneys for the Cherokee Nation.

File with C. F. D-708, Richard Riley, et al.

SUPPLEMENTAL: C. F. D-696, Ed Riley.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 25, 1901.

In the matter of the application of Ed Riley for enrollment
as a Cherokee Freedman.

TESTIMONY ON THE PART OF THE CHEROKEE NATION.

Appearances:

Mr. Smith, of Mellette & Smith, attorneys for applicant;
W.W. Hastings, Esq., of attorneys for the Cherokee Nation.

(Witnesses placed under rule.)

EMILY HUMPHRIES, being sworn by Commissioner Needles, tes-
tified as follows:

BY MR. HASTINGS:

- Q What is your name? A Emily Humphries.
- Q Aunt, where were you living before the war? A Out here about
6 miles from Fort Gibson, on the place that Jack Gott lives on now.
- Q East of Fort Gibson? A Yes sir.
- Q Where did you go during the war? A I come here to Fort Gibson.
- Q Where did you go just after the war? A I went back on the
what's called the Four Mile Branch.
- Q Is that east of here, out towards Tahlequah? A Yes sir.
- Q How long did you live out in that country? Neighborhood; the
first few years after the war? A I lived there three years.
- Q Then where did you go, aunt? A I moved from there to Spring
Creek.
- Q How long did you live at Spring Creek? A I lived there 8 years.
- Q Then where did you go, aunt? A I came right back to Four Mile
Branch, where Joe Ross lives.
- Q And you lived there a number of years did you? A I lived there
some 4 or 5 years.
- Q Did you know a colored man by the name of Joe Riley? A Yes sir,
I knew him.
- Q Did you know him before the war? A Yes sir.
- Q Where did he live before the war? A He lived at the same place
I told you I lived, where Jack Gott lives, and his owners sold him
to Steven Foreman's wife, daughter of old man Riley's, and he lived
with Foreman until the war got up.
- Q You knew Joe Riley awhile before the war? A I did; we lived
together as fellow servants.
- Q I believe you said you were in Fort Gibson during the war? A I
stayed here during the war in Fort Gibson.
- Q And then went out on Four Mile Creek and stayed three years after
the war? A Yes sir, Four mile Branch. The cholera got up and caused
us to leave Fort Gibson.
- Q You went there when the cholera broke out here? A Yes sir.
- Q Was that after the war or during the war? A Just after the war.
- Q Now when was the first time you saw Joe Riley down here after
the war? A First time I remember seeing Joe Riley was after I come
from the Spring Creek.
- Q About how many years was that after the war, your best judgment?
A I guess it was about 8 or 9 years as near as I can guess.
- Q Where did you see Joe the first time after the war? A He come to
my house, I had then moved to Tahlequah; he come to my house and
stayed with me several weeks.
- Q Did he bring any children there? A He brought his youngest child
with him by the name of Fred.
- Q How old was Fred at that time? A I don't suppose he was more
than about 10 or 12 years old, just a boy.

Ed Riley (sup'1) 2

Q You know whether Ed was born before the war or after the war?

A He must have been born after the war; he wasn't born before the war; born after the war.

Q Did he have just the one child with him? A He only had one with him but he said he had others, but I didn't see them.

Q You know where he came from when he came to our house? A I guess he came from Kansas, that's where he left his family.

Q How do you know about that? A He said he left his family up there.

MR. SMITH: I object to that, because it is hearsay.

Q He said his family was up in Kansas? A He left his family up there.

Q Did this man ever live with Dorcas Buffington? A Yes sir, he married her.

Q Was that before or after you saw him at Tahlequah? A He married her after he came to my house; stayed around me sometime, and after that he married Dorcas Buffington and moved to 14 Mile Creek and lived with her and he went blind and his children took him home and took care of him until he died.

Q That was the first time you ever saw him after the war when he came to your house at Tahlequah? A Yes sir.

Q You lived here until the cholera broke out? A Yes sir.

Q You lived over here on Four Mile Branch and lived there about three years? A Yes sir.

Q You went then to Spring Creek and lived there about- and then where did you go? A Back to Four Mile Branch.

Q How long did you stay at Four Mile Branch then before you went to Tahlequah? A I don't remember; I stayed some time and then I moved to Tahlequah.

Q You never saw Joe Riley while you were here at Fort Gibson?

A No sir.

Q Did you see him while you were out here on Four Mile Branch?

A Yessir.

Q You had been fellow servants with him before the war? A Yes sir.

BY MR. SMITH:

Q What did you say your name was? A Emily Humphries.

Q How far is Spring Creek from here? A I don't know, it is called 18 miles from Tahlequah.

Q How far is Spring Creek from 14 Mile Creek? A I don't know.

Q Aint that it, 14 Mile Creek? A You are talking about the 4 Mile Branch I guess.

Q Now the 14 Mile Creek is one thing and the 4 Mile Branch is another? A 14 Mile Creek is between Tahlequah and where I live at Spring Creek, 14 Mile Creek is between the two places; I don't suppose it is more than about-

Q From here I am talking about? A Oh from here, I guess it is no more than about 10 or 12 miles from here to 14 Mile Creek; I never traveled the road, I don't know the road.

Q Then when you moved from here out to Four Mile Branch how far would you pass from 14 Mile Creek? A I don't know, 5 or 6 miles I guess, about 8 miles, that's what it is.

Q All you know about this matter is that you didn't see Joe Riley yourself until several years after the war? A I never saw him until after the war.

COLUMBUS LASLEY, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A Columbus Lasley.

Q How old are you? A 53.

Q Where did you live during the war? A Around here at Fort Gibson.

Q Where did you live just after the war? A I lived in Tahlequah District, just after the war, out here on 4 Mile Branch.

Ed Riley (sup'1) 3

Q How long did you live out in there before you moved? A I lived there until '74.

Q Did you know Aunt Dorcas Buffington? A Yes sir.

Q Did you ever know an old man by the name of Joe Riley, an old man, preacher? A Yes sir.

Q Did you know him before the war? A No sir.

Q How long did you stay in Fort Gibson before you went out to 4 Mile Branch? A I come here in Fort Gibson along in '65 I believe, and moved out there in '67.

Q When was the first time you ever saw Joe Riley after the war?

A Along about '80 or '81.

Q Where did he live? A He was just stopping with his son, Tom Harlin when I first knew him on 14 Mile Creek.

Q Did he ever live with Dorcas Buffington or Dorcas Riley?

A Yes sir.

Q Was it before or after that time that he lived with her? A After that.

Q About how long did he live with her? A About a year or more, couple of years, something like that.

Q Did any of his children live down there with him? A Not that I know of, only Tom.

Q Tom is living up there; he goes by the name of Tom Harlin yet?

A Yes sir; he lived with Tom, best of my recollection.

BY MR. SMITH:

Q You are just testifying to the best of your recollection now are you, Columbus? A First time I saw him along about '80 or '81.

Q Were you ever at his son Thomas? A Yes sir.

Q When were you at Thomas? A I have been there several times.

Q Were you there during '80 and '81 at Thomas' home? A I don't know just whether I was there then or not.

Q Just whether Joe Riley had a family anywhere in the Cherokee Nation you don't know? A No sir.

W.H. MARKHAM, being sworn by Commissioner Needles, testified as follows:

BY MR. HASTINGS:

Q What is your name? A W.H. Markham.

Q Where do you live? A 6 miles east of Fort Gibson, Illinois District.

Q Did you ever live up near Bluejacket? A Yes sir.

Q When did you live there? A Lived there 20 years ago and lived there about 11 years ago.

Q Did you ever know a colored man who claimed to live up there by the name of Joe Riley? A Yes sir.

Q Old man or a young man? A An old man.

Q You know any of his children? A No sir.

Q Did he have any children? A Said to have, that's all I know about that.

Q Have a wife? A Yes sir.

Q Which came to the neighborhood of Bluejacket first, you or him?

A I came there first. I lived 6 miles west of Bluejacket on Big Cabin Creek, and when I saw him he lived on the Timbered Hill, what they called Timbered Hill, about half-way between Bluejacket and Big Cabin Creek.

Q Half way between them and the place you lived? A Yes sir, in the neighborhood there.

Q You knew where he came from when he came there? A I know what he said.

MR. SMITH: Q What was said? A Joe Riley.

MR. SMITH: I object to what Joe Riley said, because he is not a party to this proceeding.

COM'N NEEDLES: He is the party through whom these people claim. A He said they moved from Emporia down in there.

Mr. Riley (sup'l) 4

Q Emporia, Kansas? A Yes sir.

Q He told you that at the time? A Yes sir.

Q About how long after you came to that country did they move in there? A I am not real certain how long, I went there 20 years ago, and it was a year or two later, I don't know exactly; they moved in and before I knew anything about it they moved away again.

Q You had this talk with him while he lived there? A Yes sir.

Q How long did they live around there? A I am not able to tell you, it was sometime though, quite a while.

Q Was it two or three or four or five years, or something like that, give me estimate? A It couldn't be 5.

Q Less than 5 then? A Yes sir, I presume it was less than 2.

Q That's your best judgment is it? A Yes sir.

BY MR. SMITH:

Q You don't know anything about where he was living 25 years ago?

A No sir.

Q Nor 30 years ago? A No sir.

Q Nor 35 years ago? A No sir.

Q You don't know where he was in '66? A No sir.

Q Or '67? A I wasn't in this country, sir.

Q He didn't undertake to tell you how long, if he came from Emporia, Kansas, he had lived at Emporia, Kansas, before you saw him? A No sir, I don't recollect just all the conversation.

Q He might have been living at Emporia 6 months before he came down there, or a year?

MR. HASTINGS: Oh that's improper. Comes now the Representatives of the Cherokee Nation and protest against any such cross examination, because it does not bring out anything, nor does it seek to bring out anything at all, or attempt to bring out anything on cross-examination.

MR. SMITH: I have the right to test him to test his right of conversation.

COURT REEDLES: Go on and test him.

Q All he told you in that conversation was that he come from Emporia, Kansas? A That's the understanding I had.

Q He didn't undertake to tell you how long he had lived in Kansas, or when he went there? A No sir.

EMILY HUMPHRIES, re-called and further examined, testified

BY MR. HASTINGS:

Q How long did he live with Aunt Dorcas as husband and wife?

A I don't really know, Mr. Hastings; something near 2 years I think though.

BY MR. SMITH:

Q Where were they living when they lived together? A They were living on 14 Mile Creek.

Q Did you see them? A I saw them frequently in passing, but I never was at their house.

Q You don't really know how long they lived together? A I think they lived there 2 years; the old man went blind.

Q You know what became of him when he went blind? A His children took him home and took care of him until he died.

Q Where did he die? A Somewhere up in Cooweescoowee, I don't know exactly where, but it was where his children was living.

Q Was his children living in Cooweescoowee? A Yes sir.

Q And they took him from down here and took him up home? A Took him from his home down here with Dorcas.

BY MR. HASTINGS:

Q You don't know where they took him? A No sir.

Q You wasn't up there? A No sir.

Q You didn't see him after that? A No sir.

Q All you know about it is hearsay? A I heard they come after him.

BY MR. SMITH:

Ed Riley (sup'1) 8

Q When Joe Riley left there did he make any statement as to where he was going? When he went blind? A No sir, I never saw him, I never saw him after he got blind.

Q You didn't hear him say where he was going to? A No sir.

BY MR. HASTINGS:

I want this applied in D-707, D-708 and D-709, Sarah Flynn, Richard Riley and Fred Riley.

EMILY HUGHES, re-called and further examined, testified:

BY MR. HASTINGS:

Q What was that child's name he brought to your house? A He called him Beddie.

Q About how old was he? A He was about 11 or 12 years old I guess.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this November 7th, 1901.

[Signature]

Commissioner.

Subscribed and sworn to before me this 10th day of April, 1907.

COMMISSIONER OF THE INTERIOR,
TO THE FIVE CIVILIZED TRIBES

FILED
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ATING CHAIR

fine and complete financial and other statements, notes, and reports, and proceeding in this case and that the foregoing is the basis for the Five Star rating. It is also noted that the Commission to the Five Star rating is not a body of experts, and that the Commission is not a body of experts, and that the Commission is not a body of experts.

Q Upon how old was he? A He was 17 or 18 years old.

1. The first step is to identify the problem or question that needs to be addressed. This involves understanding the context and the specific requirements of the task.

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File with case of Richard Riley, et al., C.F.-D.#708.

Supl.C.F.-D.#686.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VICTA, I.T., OCTOBER 11th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of ED
RILEY, ET AL., as Cherokee Freedmen, introduced on part of Cherokee
Nation:

APPEARANCES:

Mr. Mallett, of Counsel for applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

TOM HARLIN, being duly sworn by Commissioner Needles,
testified as follows on part of Cherokee Nation:

MR. HASTINGS: What is your name? A Tom Harlin.

Q What is your age, Mr. Harlin? A I am about 57 years old.

Q What is your past office? A Chouteau.

Q Mr. Harlin, where did you live after the war, just directly
after the war next year, when the war closed? A I lived at Fort
Gibson a while, made a crop of corn there and then I moved on Four-
teen Mile Creek and been living there ever since until about two
years ago.

Q Do you know what year you moved on Fourteen Mile Creek? A I
moved in the fall of '65.

Q About how far from Fort Gibson was that? A That one was ten
mile.

Q Well, you stated you lived there until two years ago?

A Yes, sir.

Q When you lived there what was your trading point? A Fort
Gibson.

Q Do you know a colored man by the name of Joe Riley? A Yes.

Q I have reference, Tom, to the Joe Riley that afterwards married
Aunt Emily Humphreys, or lived with her? A I don't know the man
that married Emily Humphreys.

Q I mean Darkus Buffington? A I know him.

Q When did you first see him after the war? A I think I told you
somewhere about '80.

Q Is that your best judgment? A I thought it was about that, I
think that were about it.

Q How long did you see him at that time? A He come to my house
there.

Q How long did he stay there? A I don't know exactly; he stayed
there, he stayed there a while.

Q Well, about how long, your best judgment? A I guess he must
have stayed there two or three weeks.

Q Was any one with him at that time? A No, he just came there by
himself.

Q He had no members of his family with him? A No, sir.

Q When did you next see him? A Well, I don't know the date when
I seen him, he come to my house again and have a boy with him.

Q What boy did he bring with him? A Fred.

Q About how old was Fred at that time? A Well, I don't know; he
was pretty good sized boy, about 14 or 15.

Q Well, your best judgment as to his age? A Well, I don't know,
I could not tell you how old he was.

Q Was he grown? A No, Fred was just a boy then.

Q Well, about, your best judgment as to how old he was; I know you
don't know the exact age he looked to be? A Well, I guess he was
about 12 or 14 years old.

Q Well, how long did he stay at your house that time? A He stay-
ed there a good while and married Darkus Buffington after that.

Q Well, about how long ago was that that he was there a second time after he married Darkus Buffington? A Well I guess it has been since he married her, I could not exactly tell, it may have been eight or nine years.

Q How long did he live around there then? A He lived there until him and her parted.

Q Well, about how many years? A They lived together five or six years, I think it was.

Q He went blind then didn't he? A Yes, sir, and she left him.

Q Well, where was Fred during that time? A I think Fred was staying, rented a place over in the Creek Nation about Muskogee.

Q Did you ever see any of the rest of his children over there on Fourteen Mile Creek? A Yes, I think I seen a daughter there.

Q What? A I saw his daughter Sarah come there.

Q Well, when did she come? A I don't know exactly when she come.

Q Was it after Joe come or before that? A She come there after the oldman was married to Darkus Buffington.

Q Did any of the rest of the children come over into that neighborhood that you know of? (No response/)

Q Did you ever see any of the rest of them over there? A I don't recollect.

Q Did you ever see Ed over there? A I told you Ed come there.

Q I thought you said it was Fred? (No response.)

Q Well, when did Ed come? A I thought I told you he come there after they married, some four years, I thought I told you that.

Q Ed come after he married Darkus Buffington? A (No response)

Q Well, how long did Ed stay there? A I don't know, I can't recollect much now, I am getting old.

Q Did Ed ever live with you? A He has been to my house, he never lived with me, he lived with me a short time up there.

Q I mean how long did he ever stay at your house? A He stayed there a little while.

Q Well, two or three weeks or longer or shorter? (No response.)

Q Your best judgment, Tom, as to the length of time he stayed around your place? A He was passing there and come and stayed all night with me sometimes.

Q Well, he never lived there then? A No, sir.

Q Now, I believe you stated that about the first time you saw Joe Riley after the war your best judgment was about eighty? A I told you the last time colored people drawed with the Cherokees.

Q Last time colored people drawed with the Cherokees? A Yes, sir.

Q Now, what kin is this Joe Riley to you? A He said I was his son.

Q This Ed Riley then would be your brother, half brother? A Yes, sir, be what he would.

MR. BELLETTE: Well, Tom, you don't remember very certainly anything about this man, do you? A Which man?

Q Joe Riley. A Yes, I remember him when I see him.

Q Now, how long has it been since 1820? A It has been about 21 or 2 years, in my judgment.

Q You said that you saw Joseph Riley the first time the last time the colored people draw with the Cherokees? A Yes.

Q Well, that was about 1875 wasn't it? A I don't know, I can't read and write.

Q Well, you didn't mean to say then that you saw Joe Riley in 1830, then did you? A I told you the last time that I drawed with the Cherokees.

Q You don't know when that was do you? A No, sir.

Q You don't know whether Joe Riley was in Fort Gibson in '66 or not, do you? A No, sir.

Q You don't know where he was in '70, do you? A I don't know when that is.

Q What? A I don't know when '70 is, I ain't educated.

Q How long is '70 after '36? A I don't know, sir.
Q Can't tell? A No, I ain't educated, if I was educated I know you could tell.
Q This man, Joe Riley, come then up, could have been up around in that country without you seeing him? A Yes, sir, I wasn't all over the country then, I lived there on Fourteen Mile Creek until I moved to Brushy.
Q You can't say that he was not in this country in 1866 can you?
A No, sir, I can't say that, I am saying what I know.
Q You saw him on Fourteen Mile Creek about the time the colored people drew the last time with the Cherokees? A Yes, sir.
MR. HASTINGS: You are said to be his son? A That is what he told me.
Q You recognize him as your father? A Yes, I call him father.
MR. BELLETTE: Did you know anything about him until you saw him there on Fourteen Mile Creek? A I saw him before the war.
Q Did you recognize him? A He said I was his son.
Q Did you recognize him when you saw him on Fourteen Mile Creek?
A He was the same man.
Q How did he happen to find you on Fourteen Mile Creek?
A Just like anybody else, inquired and come to my house.
Q And he just found you there? A Yes, he found me there on Fourteen Mile Creek.
Q How many years did he live there? A I don't know, now, I done told you I can't recollect. You want me to tell a lie and I ain't going to tell it.
Q You are not going to say how long he lived there? A No, sir, I told you two or three times.

AUSTIN W. FOREMAN, being duly sworn by Commissioner Needles, testified as follows on part of Cherokee Nation:

MR. HASTINGS: What is your name? A Austin W. Foreman.
Q Where do you live, Mr. Foreman? A Vinita, I. T.
Q You are a Physician, aren't you? A Yes, sir.
Q What is your age? A 46, born in '55 August.
Q Did you know a colored man before the war by the name of Joseph Riley? A Yes, sir.
Q Well, where did you know him? A I knew him at my home at Park Hill, five miles south of Tahlequah.
Q Well, whom did he belong to when the war came up? A He belonged to my father.
Q Who had owned him before your father had? A I don't know.
Q Well, it is the understanding he belonged to some of the Rileys?
A Some of the Rileys.
Q Well, do you know a son of his by the name of Ed Riley?
A Well, no and yes too; there was a young man came to me and told me his name was Ed Riley and was son of Joe Riley, that has been a few years ago.
Q Well, where did he live at that time? A I ~~never~~ could not answer that question.
Q Where did he say he lived? A I got that impressions though that he lived out west here somewhere, that was just a few years ago, three or four years ago perhaps.
Q Have you ever seen Joe Riley since the war? A I have.
Q Where did you see him? A I saw him in Vinita, this place.
Q Is this the same Joe Riley you are speaking about? A Yes, sir, same Joe Riley.
Q Well, about how long ago? A Well, it has been about 17 years ago.
Q Did you have any conversation with him at that time? A I did.
Q What did he say, I mean with reference to where he lived and his return.

Mr. Mellette: I object to the testimony upon the ground that the conversation was not with the applicant and it does not bind the applicant.

Com'r Needles: The objection will be noted.

A He was from Kansas and had come down to live in this country.

Q Well, did he say where he actually lived at that time? A He was putting up and stopping and building up here at Timbered Hill.

Q Where is Timbered Hill from here? A Something like 5, 6 or 10 miles from here.

Q How far from Bluejacket? A I suppose three or four miles.

Q Did he say where he was from in Kansas? A He might have but

I don't remember the town, I remember the State distinctly though.

Q Did he say how long he had been from Kansas? A Had just come down, the impression he gave me, he just came down and was building a house up on Timbered Hill.

Q Have any family with him? A Said his family was with him.

Q Well, did you see Joe after that? A Several times after that, yes, sir.

Q You afterwards saw a boy by the name of Ed? A I few years ago.

Q Claimed that Joe Riley was his father? A Yes, sir.

Q You know what finally became of this Joe Riley you speak of?

A Why I think they went back to Kansas; the talk with me at that time was he was talking about selling later on, selling his improvements.

Q Do you know whether he is alive now or not? A I heard he was dead.

Q Do you know whether his eye sight was ever impaired or not?

A I heard

Mr. Mellette: Now, please Doctor, don't talk as to what you heard.

Q You never saw him after he went blind? A No, sir.

Q Did you recognize him when you saw him after the war? A Yes, sir.

Q Talked with him about old times? A Yes, sir.

Q Asked him about his whereabouts? A Yes, sir.

MR. MELLETTE: You don't know where he was in 1866 and during that time on up to the time you saw him? A Not in '66.

Q Well, you don't know where he was in '70, do you? A Not in '70.

Q According to your testimony you must have seen him about 1874, 17 years ago? A Well, that is the first time since '62; I first saw him in '62 and I next saw him 17 years ago.

Q Now, you have given your impression as to what he said about where he was from at that time, you say your impression is that he was from Kansas? A He told me that, no impression about that.

Q He didn't go on and explain how long he had been there? A No, sir, not the number of years.

Q Well, isn't it a fact he died here in this country there?

You talked there a while ago and said what you heard; you said what you heard there, said your impression a while ago? A I understand he died in this country.

Q In this country? A No, I don't know where he died; take that part back.

Q You don't intend to say as a fact he went back to Kansas?

A No, sir. I don't know where he went but I haven't seen him since.

MR. HASTINGS: Where was John Riley living with reference to your father before the war? A Well, the only John Riley I know was my uncle.

Q Where did he live? A He lived down there about the bayou, between Fort Gibson and Tahlequah, between Fort Gibson and Park Hill.

Q How far from your father? A The bayou is about 12 miles I think.

MR. MELLETTE: Doctor, your father a Cherokee, was he?

A Yes, sir.

Q Citizen of the Cherokee Nation? A Yes, sir.

COMMISSIONER NEEDLES: Doctor, do you know how old this Ed Riley was when you saw his father that time? A I do not.
Q You don't know whether he was a man grown or minor? A I do not.

GRANVILLE CRAIG, being duly sworn by Commissioner Needles, testified as follows: On part of Cherokee Nation:

MR. HASTINGS: What is your name? A Granville Craig.
Q You are a citizen of the Cherokee Nation? A Yes, sir.
Q By adoption or blood? A Blood.
Q Where do you live, Mr. Craig? A I live about 12 miles north of here on Big Cabin.
Q How far from Bluejacket? A Five miles west.
Q Well, how far from a timbered hill out there? A About a mile.
Q Well, how long have you lived in the neighborhood of that timbered hill? A Ever since '75.
Q Did you ~~stay~~ settle there in '75? A Yes, sir.
Q Now, how far from Timbered hill? A About a mile.
Q Did you know a colored man up in that country by the name of Joe Riley? A Yes, sir.
Q Was he there when you settled there? A No, sir.
Q Did a Joe Riley ever settle there? A He told me his name was Joe Riley and went by that name.
Q About when did he locate there? A I think it has been probably about 17 years, or 18, somewhere along there, don't remember just the time.
Q How far did he locate from you? A About two miles.
Q In the prairie or timber? A Right in the timber, a spring in the timbered hill.
Q Is that a prairie country or timbered? A Prairie country around the timbered hill.
Q About how much is in that timbered hill? A I expect it has five or six thousand acres.
Q How long did he live there? A I think he lived there about a year or hardly that long.
Q What because of his improvements? A I bought them, what he had there.
Q You know where he went from there? A No, I don't, he told me he was going back to Kansas, told me he was from Kansas and was going back there, I bought him out and I don't know where he went.
Q Did he have any children? A Yes, I think he had four or five, there was four or five there.
Q Do you know any of those boys names? A No, sir.
Q They only stayed there about a year? A Hardly a year as well as I remember; he made a little improvement there at a spring and I bought what improvements he had there, and he said he was going back to Kansas, and that is the last I knowed of him.
Q Any other colored man by the name of Joe Riley there before that, ever stayed there since you have been there? A No, sir; that spring goes by the name of Riley's spring now.
Q Took his name? A Yes, sir.
Q He told you he was from Kansas? A Yes, sir, I bought him out; he said he was going back to where he come from.
Q He left there? A Yes, sir.
Q And that is all you know about it? A Yes, sir.
MR. BELLETT: You don't know this applicant here, Ed Riley?
A No, I don't expect I do.
Q Do you know his brother, Fred Riley? A No.
Q Do you know his sister, Sarah Flynn? A No, sir.
Q Did you know this Joe Riley very well that located up there?
A No, sir, not overly well, seen him several times while he was there.

- Q You don't know where he went, only he moved away? A No, sir.
Q You don't know where he was in '66 or anything like that?
A No, sir.
Q Had never seen him until he came there and never seen him since?
A No, sir, if I did I don't remember it.
Q Have you ever seen any of his children since? A No, not that I know of.
Q You would not know them if you were to see them? A No, sir.
Q You don't know where Joseph Riley died? A No, sir.
MR. HASTINGS: Are you pretty well acquainted in that timbered hill country? A Tolerably well, yes, sir.
Q What do you follow, farmer? A Yes, and stockraising.
Q Well, have you had occasion to travel over that country more or less? A Oh, yes, I have traveled over it for years, right along.
Q Was it thinly or thickly settled when you moved there? A It was thinly settled; no settlement there at all hardly.
Q People lived miles apart? A Yes, sir.

Com'r Needles: This testimony will be filed with the paper in the original case and copies of the same will be made part of the record in Freedmen doubtful cases #707, #708, and #709.

---000000000000---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rossen

Subscribed and sworn to before me this October 18th, 1901.

[Signature]

Commissioner.

C E R T I F I C A T E O F M A R R I A G E.
T E R R I T O R Y O F O K L A H O M A.

This certifies that on the 29th day of August A.D. 1900
at Pawnee, O.T. in said County according to law and by authority,
I duly joined in marriage Mr. Wellington Rogers of Skiatook, I.T. and
Miss Dora Scovel of Skiatook, I. T..

That there appeared to be no lawful impediment to such
Marriage, and that the parties were satisfactorially proven to be
the persons described in this certificate, and of sufficient age to
contract marriage.

There were present as witness, Blanche and Jesse Bussey
of Pawnee, O.T.

Given under my hand the 29th day of August A.D.1900.

E. F. Hill, Pastor M. C. Church
Ponca City, O.T.

I the undersigned stenographer to the Commission to the
Five Civilized Tribes do hereby certify that the above and foregoing
is a true and correct copy offered in the matter of the application
for enrollment of Wellington Rogers, et al. as citizens of the
Cherokee Nation.

Muskogee, Indian Territory,

May 21, 1902.

W. S. Kaufman

10 Watson Hicks
 vs
 Annie Hicks

Divorce for desertion.

1st C - 2nd c both at onc.

Judgement confefed by pefendant and decree of divorce
granted plntff.

Exececutive Office Cherokee Nation.

Tahlequah, I.T.

I, B. W. Alberty, assistant Executive Secretary of
the Cherokee Nation do hereby wertyfy that the above is a true copy
taken from the Docket of the Circuit Court for Tahlequah District
Cherokee Nation, for the May term of said Court 1891: said Docket is
filed in this office and is in my custody.

(SEAL) Given under my hand and the seal of the Cherokee Nation this
the 13th day of December 1900.

B. W. Alberty,
Assistant Executive Secretary
Cherokee Nation.

I the undersigned stenographer to the Commission to
the Five Civilized Tribes do hereby certify that the above and fore-
going is a true and correct copy of the original offered in evidence
in the matter of the application for enrollment of Wellington
Rogers, et al. as citizens of the Cherokee Nation.

Muskogee, Indian Territory,

May 21, 1902

M. S. Kaufman

Cooweescoowee District, C. N.

Sept. 21st, 1890.

I T. Bass do hereby certify that I have this day solemnized the rites of matrimony between R. W. Hicks and Emer D. Scovel.

T. Bass

Minister of the Gospel.

Witness: Wm. McCay.
W. A. Long
Eliza Long

I the undersigned stenographer to the Commission to the Five Civilized Tribes do hereby certify that the above and foregoing is a true and correct copy of the original offered in evidence in the matter of the application of Wellington Rogers et al. for enrollment as citizens of the Cherokee Nation.

Muskogee, Indian Territory,

May 21, 1902.

W. S. Kaufman

T.P.T.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of application for the enrollment of
Ed Riley, et al. as Cherokee Freedmen, consolidating the applica-
tions of

Ed Riley, et al.,.....	Cherokee Freedmen	D	696
Sarah Flynn, et al.,.....	"	"	D 707
Richard Riley, et al.,....	"	"	D 708
Fred Riley,.....	"	"	D 709

D E C I S I O N .

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Ed Riley for himself and his four minor children, Matt, Jessie, Howard and Annie Riley, as Cherokee Freedmen and for the enrollment of his wife, Mary Riley, as a Cherokee Freedman by intermarriage; but as the status of persons applying for enrollment as Cherokee Freedmen by intermarriage is not fixed at this time, the application for the enrollment of Mary Riley, as such, will not be adjudicated in this decision; by Sarah Flynn for herself and her minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn; by Richard Riley for himself and his two minor children, Willie and Mary Riley, and by Fred Riley for himself.

The evidence shows that all of the applicants herein are the descendants of one, Joseph Riley, who was the slave of a Cherokee citizen at the commencement of the rebellion; that the said Joseph Riley went to Kansas during the rebellion and did not return to and establish a residence in the Cherokee Nation within the time specified, in the decree of the Court of Claims, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee Nation, et al., for the return of freedmen to said Nation; and that all of said descendants of Joseph Riley were born since the commencement of the rebellion and have no rights as Cherokee Freedmen, except such as they may have acquired through him. It further appears that none of said applicants are identified on the 1880 authenticated Cherokee roll.

It is therefore, the opinion of this Commission that the applications for the enrollment of Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley (daughter of Richard Riley) and Fred Riley as Cherokee Freedmen should be denied under the provisions of section twenty-one of the act of Congress, approved June 28, 1896 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

--2--

Signed-- Tams Dixby.

" T/ B. Needles.

" C. R. Breakinridge.

" W. H. Stanley.

Muskogee, Indian Territory,
this MAR 5 1904

James

FILED IN
MAR 22 1907

James
MAR 22 1907

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

MDG

COMMISSIONERS
TAMM DIXIE,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen
D-708.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, March 22, 1904.

Richard Riley,
Hayden, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Willie and Mary Riley, as Cherokee freedmen. There has this day been forwarded to your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, together with a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Register

Enc. D-30

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-896 et al.

Muskogee, Indian Territory, March 23, 1904.

Edgar Smith,

Attorney for Ed Riley et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the consolidated case of Ed Riley et al., together with a copy of the Commission's decision, dated March 3, 1904, rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Mattie, Gastella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

215

Register.

Commissioner in Charge.

Enc. D-31.

COPY.

Cherokee Freedmen
D-696 et al.

Muskogee, Indian Territory, March 22, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Ed Riley et al., rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Mattie, Castella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-32.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-898 et al.

Muskogee, Indian Territory, March 22, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Ed Riley et al., including the Commission's decision, dated March 6, 1904, rejecting the applications for the enrollment of Ed, Matt, Jessie, Howard and Annie Riley, Sarah, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Gracie Flynn, Richard, Willie, Mary and Fred Riley as Cherokee freedmen.

Respectfully,

T. B. Needles

Through the
Commissioner of Indian Affairs.

Commissioner in Charge.

Enc. D-33.

Refer in reply
to the following:
Land,
20430-1904.

COPY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

July 13, 1904.

The honorable,

The secretary of the interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes dated March 22, 1904, transmitting the record of the consolidated applications for enrollment as Cherokee freedmen of Ed Riley for himself and his four minor children, Matt, Jessie, Howard and Annie Riley; of Sarah Flynn for herself and her seven minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella and Grace Flynn; of Richard Riley for himself and his two minor children, Willie and Mary Riley, and of Fred Riley for himself.

March 5, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The record shows that all of the applicants are descendants of Joseph Riley, who was the slave of a Cherokee citizen at the beginning of the war of the rebellion and went out of the Nation during the war, and returned to the Cherokee Nation and established a residence prior to February 11, 1867.

There is the usual testimony on the part of the Cherokee Nation of some two or three witnesses who testify that they did not see Joseph Riley, the ancestor, through whom the applicants claim, until sometime between 1875 and 1880, and it is conceded that more of the same quality of testimony could have been adduced.

-2-

The applicants furnish the positive testimony of three witnesses showing that Joseph Riley and his family returned to the Cherokee Nation in 1866, and he died there in 1899.

All of the applicants born at that date are identified on the Kern-Clifton roll but none are found on the 1880 authenticated Cherokee rolls.

In view of the record, it is recommended, that the Commission's decision adverse to the applicants be not approved, and that the applicants be enrolled as Cherokee freedmen.

Very respectfully,

A. C. Tenner

Acting Commissioner.

M.M.M.
W.

3 encl.

D. C. 26255-1904.

V.S.F.

I.T.D. 5726-1904.

MR J.P.

L.R.S.

DEPARTMENT OF THE INTERIOR,

WASHINGTON. July 22, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 22, 1904, you transmitted the record in the matter of the consolidated Cherokee freedman case of Ed Riley, et al (D-696 et al), including your decision of March 5, 1904, rejecting the applicants.

Reporting in the matter July 13, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be not approved, and that the applicants be enrolled as Cherokee freedmen.

You are directed to advise the applicants and the attorney for the Cherokee Nation of the Acting Commissioner's recommendation, and allow said attorney thirty days within which to file an argument in the matter, and the applicants ten days within which to reply to same.

Respectfully,

Thos Ryan

Acting Secretary.

Cherokee Freedmen

D-708.

Muskogee, Indian Territory, August 1, 1904.

Richard Riley,

Hayden, Indian Territory.

Dear Sir:

In the matter of your application for the enrollment of yourself and children as Cherokee Freedmen, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision rejecting your application be not approved, and that you be enrolled as Cherokee Freedmen.

In accordance with instructions contained in the Department's letter you are advised that the attorneys for the Cherokee Nation have this day been notified that they will be given thirty days from date hereof within which to file with the Commission, for transmission to the Secretary of the Interior, such argument as they may desire to submit in this case, copies of which they will be required to furnish both yourself and your attorney, Edgar Smith, Vinita, Indian Territory. You are advised that you will be allowed ten days additional within which to file with the Commission, for transmission to the Secretary, a reply to said argument.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-696-707-708-709.

Muskogee, Indian Territory, August 1, 1904.

Hastings, Bell & Davenport,

Attorneys for the Cherokee Nation,

Vinita, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Ed Riley, et al, Cherokee Freedmen D-696; Sarah Flynn, et al, Cherokee Freedmen D-707; Richard Riley, et al, Cherokee Freedmen D-708; Fred Riley, Cherokee Freedman D-709, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision in these cases rejecting the applicants be not approved and that the applicants be enrolled as Cherokee freedmen.

In accordance with instructions contained in the Department's letter you are advised that you will be allowed thirty days from date hereof within which to file with the Commission for transmission to the Secretary of the Interior such argument as you may desire to submit in these cases, copies of which you will be required to furnish the principal applicant in each of the above named cases, and also their attorney, Edgar Smith, Vinita, Indian Territory.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, August 1, 1904.

Edgar Smith,

Attorney for Ed Riley, et al.,

Vinita, Indian Territory.

Dear Sir:

In the matter of the application for enrollment of Ed Riley, Cherokee Freedmen D-696; Sarah Flynn, et al., Cherokee Freedmen D-707; Richard Riley, et al., Cherokee Freedmen D-708; and Fred Riley, Cherokee Freedmen D-709, the Commission is in receipt of departmental letter of July 22, in which it is stated that the Acting Commissioner of Indian Affairs in his letter of July 13, recommends that the Commission's decision rejecting these applicants be not approved, and that the applicants be enrolled as Cherokee Freedmen.

In accordance with instructions contained in the Department's letter you are advised that the attorneys for the Cherokee Nation have this day been notified that they will be given thirty days from date hereof within which to file with the Commission for transmission to the Secretary of the Interior such argument as they may desire to submit in these cases, copies of which they will be required to furnish both the principal applicant in each case and yourself. You are advised that you

-2-

will be allowed ten days additional within which to file with the Commission for transmission to the Secretary a reply to said argument.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR,

LLB

WCF
J.P.

WASHINGTON.

I.T.D. 8726, 11070-1905.

September 8, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On March 22, 1904, you transmitted the record in the consolidated Cherokee freedman case of Ed Riley et al., embracing the applications for the enrollment of Ed Riley and his four minor children, Matt, Jessie, Howard, and Annie Riley; of Sarah Flynn and her seven minor children, Oliver, Joseph, Fannie, Serena, Nettie, Castella, and Grace Flynn; of Richard Riley and his two minor children, Willie and Mary Riley; also the application of Fred Riley.

On March 5, 1904, the Commission to the Five Civilized Tribes held that the applicants were not entitled to enrollment as Cherokee freedmen, for the reason that the record showed that Joseph Riley, the ancestor through whom the applicants claim right to enrollment did not return to the Cherokee nation prior to February 11, 1867.

Reporting July 13, 1904, the Indian Office recommended that the Commission's decision adverse to the applicants be not approved, and that the applicants be enrolled as Cherokee freedmen. A copy of its letter is inclosed.

July 22, 1904, the Commission was directed to notify the applicants and the attorneys for the nation of the recommendation of the Indian Office, and allow said applicants and attorneys further time

within which to file argument in the case. Argument by attorneys for the nation was filed with the department and has received due consideration.

It is shown by the record that the applicants are descendants of Joseph Riley, and that said Joseph Riley was a slave of a citizen of the Cherokee nation at the beginning of the war. It appears that he went to Kansas during the war. The question to be determined is whether said Joseph Riley returned to the nation prior to February 11, 1867.

Witness John Landrum stated that he saw Joseph Riley in the nation just after Christmas, in 1866. Polly Nivens stated that she saw said Joseph Riley in the nation the next year after peace was declared. L. D. Daniels stated that he saw him at Fort Gibson in December, 1866; that he, Riley, stated he was living at Fourteen Mile Creek, Emily Humphries, witness introduced by the attorneys for the nation, testified that she saw Joseph Riley 8 or 9 years after peace was declared. Columbus Lasley saw him in 1880 or 1881. W. H. Markham did not know where said Joseph Riley was in 1866; that he, Riley, told him several years after the war that he came from Emporia, Kans. Tom Harlin, said to be a son of Joseph Riley, first saw said Riley at Fourteen Mile Creek "about the time the colored people drew the last time with the Cherokees." Austin W. Foreman saw said Joseph Riley in 1862 and again 17 years prior to the taking of the testimony herein. Granville Craig did not know where Joseph Riley was in 1866.

The attorneys for the nation claim that Polly Hivens and L. D. Daniels are unworthy of belief. There is nothing in the record, however, which impeaches their testimony. Their statements are corroborated by the testimony of John Landrum.

That Joseph Riley returned to the nation prior to February 11, 1867, is not denied by the witnesses introduced by the attorneys for the nation. As will be seen from the above statements as to what said witnesses testified to their testimony relates to the applicant's whereabouts several years subsequent to 1866. Apparently, they are not informed as to his whereabouts in 1866.

The department therefore believes that the preponderance of the evidence shows that said Joseph Riley returned to the Cherokee Nation prior to February 11, 1867. The recommendation of the Indian Office is therefore concurred in.

The commission's decision of March 8, 1904, is reversed and you are directed to enroll the applicants as Cherokee freedmen.

Respectfully,

(Signed) Thos Ryan

Acting Secretary.

1 inclosure.

Muskogee, Indian Territory, June 15, 1906

The Honorable,

The secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of September 8, 1905 (I.T.D. 5726,11070-05), reversing the decision of the Commission to the Five Civilized Tribes dated March 5, 1904, in the matter of the applications of Ed Riley, et al., for enrollment as Cherokee freedmen, wherein it is held by the Commission that the said applicants are not entitled to enrollment as Cherokee freedmen.

The reason for the Department's action in this matter is based upon the testimony of John Landrum, Polly Nivensa and L. D. Daniels, which, it is held, in effect, shows that one Joseph Riley, through whom the eighteen applicants in this consolidated case claim the right to enrollment as Cherokee freedmen, complied with the provisions of Article IX of the Treaty of 1866, as interpreted by the Whitmire decree, for the return of freedmen to the Cherokee Nation.

As stated in Departmental letter above referred to "The question to be determined is whether the said Joseph Riley returned to the (Cherokee) Nation prior to February 11, 1867?" and it is held by the Department that it is established by the testimony of the three witnesses above named that he did return within the time specified.

The Department has repeatedly ruled that the burden of proof is upon the applicants, and that they must show by satisfactory, clear and convincing evidence that their right to Cherokee citizenship is perfect. Eliza Bryant et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al (I.T.D. 1470-04), Samantha Chambers (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Moses Ross (I.T. D. 6056-04), Florence Bratcher (I.T.D. 12592-04), and Jane Looney et al. (I.T.D. 12688-04).

In view of the fact that the provisions of Article IX of the treaty of 1866 were, in a measure, imposed upon the Cherokee Nation as a penalty for its conduct during the late rebellion, the justice of the above indicated rulings become apparent, and, under the authority of these

rulings it is that this office, for reasons set out below, begs leave to file its protest against the action of the Department in reversing said decision of the Commission to the Five Civilized Tribes rendered on March 9, 1904, wherein it was held that Ed Riley, et al., Doubtful cases Nos. 696, 707, 708 and 709, respectively, are not entitled to enrollment as Cherokee freedmen.

After five years experience with the witnesses, John Landrum, Polly Wivens and L. D. Daniels (among many others), this office is prepared to say that their testimony is valueless in determining facts at issue in any case in which they testify.

In re John Landrum: As a matter of fact this witness was not in the Cherokee Nation "three or four weeks after Christmas, 1866" the time at which he claims to have seen Joseph Riley and his little boy returning from Kansas to his old home near Park Hill, Cherokee Nation. Neither the said John Landrum, nor any one of the Webber-Whitmire-Ganders colony of freedmen, of which he was a member, were in the Cherokee Nation between Christmas, 1866, and March, 1867, and that these are the facts

this office is thoroughly convinced, from evidence in its possession collected from hundreds of freedmen cases.

The inconsistency of John Landrum's testimony in this case is shown in the following extracts, to-wit: "I seed him (Joseph Riley) on Lightning Creek, between Lewis's (Whitwire or Wright) place and my place; on Lightning Creek, I had just come there." Between his place on Lightning Creek and Lewis Whitwire's place on Big Creek is where this witness claims to have seen Joseph Riley as he was returning from Burlington, Kansas, to his old home at Park Hill, in the Cherokee Nation, and he further testifies that Joseph Riley and a small boy were traveling alone. In the first place the returning freedmen were not traveling alone in 1866 and 1867, their experience at Horse Creek having shown them the danger of such a practice, and the evidence in numerous cases before this office shows that they invariably returned in crowds. In the second place, at that time Coowees-coowee District was a wilderness of which the ex-Cherokee slaves knew as little as they did of the jungles of Africa, and it is unreasonable to presume that Joseph Riley would,

at that time, have attempted to cross that part of the Cherokee Nation alone and unaided. In the third place, there was a well traveled military road leading direct from the vicinity in Kansas where it is alleged Joseph Riley lived during the war, to his old home in the Cherokee Nation, hence, the question naturally arises, What was Joseph Riley's object in traveling thirty-five miles to the west of the main road leading direct to his destination, alone and unprotected, through a country which necessarily must have been a wilderness to him, and in which there were no settlements or roads to guide him to his objective point, Park Hill?

It cannot be contended that Joseph Riley had gone over to Lightning Creek to see his old friend and acquaintance, John Landrum, as this witness testifies "He never stopped to my knowing, did not stay any time; I just met him on the road, he knowed me; 'Hello, my boy, isn't this Jack?', and I said 'this is', and he said 'I am trying to get back to my old home'. Witness also testifies that there was no road where he met Joseph Riley, "just a path".

Evidence aliunde:

In C. F. D. 474, John J. Rose, et al. The minor applicants in this case claim through their mother, Mama Rose, nee Dannenberg. John Landrum of Hayden, witness:

- "Q Do you know Emily Rose, the wife of John Rose?
A Yes sir, I am slightly acquainted with her.
Q When did you first see her in the Cherokee Nation after the war? A. On Lightning Creek
Q When? A. Fall of '86.
Q Who was she with? A. Her mother, Tilda."

In this case it was shown by documentary and testimonial evidence, thoroughly convincing, that Emily Rose and her mother Tilda, continuously lived at Lawrence, and Topeka, Kansas, from the close of the rebellion till subsequent to April 5, 1873, and in its decision rendered on March 11, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on December 3, 1904 (Departmental letter I. T. D. 10738-04).

In C. F. D. 664, Jim Landrum, et al. John Landrum,
of Hayden, witness:

- "Q When did you first see him (Jim Landrum) in the Cherokee Nation after the war? A. I saw him in '66 on Grand River, to his father's.
Q Did his father come back at the same time he did?
A Yes sir, of course he did.
Q And if he says he came back before his father did he is mistaken, isn't he? A. He come before that time expired and remained;.....
Q Has he been living near you ever since he returned?
A He sir, not near me.
Q How often have you seen him? A. Sometimes about a month or two."

The testimony of C. R. Griffith of Vinita, Indian Territory, formerly of Emporia and Neosho Falls, Kansas, and of C. W. Learned, L. B. Moore and J. A. Lynn, of Neosho Falls, Kansas, shows conclusively that the said Jim Landrum continuously lived in and around Neosho Falls, Kansas, from the close of the rebellion till 1885, and in his decision rendered on September 8, 1905, the Commissioner to the Five Civilized Tribes so found, the proceedings in this case being duly forwarded to the Department, where they are now pending.

In C. F. R. 198, Mariah Hayden, et al. John Landrum, of Hayden, witness:

- "...A. I saw her (Mariah Hayden) in the Cherokee Nation in '66, after she had come back.
Q Where? A Lightning Creek.
Q Where has Mariah Hayden lived since? A. She moved from there to a little place southwest of there.
Q Has she lived on these two places ever since?
A. Yes sir."

In this case it was shown by convincing testimony that Mariah Hayden and her husband, Henry Hayden, lived in and near Lawrence, Kansas, from the close of the rebellion till subsequent to the year 1873, and in its decision rendered on August 30, 1902, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on November 26, 1902 (I.T.D. 6964-02).

C.F. R. 410, Katie Thornton, et al. John Landrum, of Hayden, witness:

- "Q Do you know who came back with her (Katie Thornton)?
A Yes sir.
Q Who? A. Thornton, her husband.
Q What was his name? A. Henry.
Q What year was that? A. That was in '66, in the fall, with others; the latter part of winter, kind of. It was in the winter.
Q They made a house down here did they? A. Yes sir.
Q Did you help build that house? A. I helped to haul the logs."

In this case it was shown that Henry and Katie Thornton had lived at Garnett, Kansas, from the close of the

rebellion until March, 1871, and in its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on June 21, 1904 (Departmental letter I.T.D. 3746-04).

C.F.D. 998, Thaddeus Hill, et al., claiming through their mother, Angeline Hill, John Landrum, of Hayden, Witness:

- "Q When did you know Angeline Hill? A. Before the war.
Q Do you know whether she returned to the Cherokee Nation or not? A. Why yes, I saw her on Grand River in '67.
Q What time in '67 was it you saw her? A. I think it was in, let's see, I think, well it was: I want you to give me time to study, because I want to have it right; it was in January, as near as I can remember.
Q That was the year after '66 was it, the year after you had come back? A. I suppose so; yes sir, that is what it was."

In its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes found that the said Angeline Hill did not return to the Cherokee Nation after the rebellion, within the time specified in the Whitmire decree, the proceedings in this case being duly forwarded to the Department, where they are now pending.

In re witness L. D. Daniels: In C.F.D. 723,
Eliza Ratcliffe. L. D. Daniels, of Claremore, witness:

- "Q Do you know the applicant here, Eliza Batcliffe?
A Yes sir, I got acquainted with her in '64, sir.
Q Where? A. At the Salt Lake in Illinois District,
Cherokee Nation.
Q You say you saw her there in '64? A. Yes sir....
she was cooking for a captain, fullblood Cherokee
they called Lecha, and he claimed to bring her
from Flint or Going-Snake, or somewhere up there.
Q What became of her? A. I lost sight of her.
Q Lost sight of her where? A. Fort Gibson.
Q Did she come to Fort Gibson? A. Yes, sir.
Q How do you know? A. I was in the wagon, drove
one of them.
Q She went to Fort Gibson with the army? A. Yes sir."

In this case it was shown that the applicant had been sold out of the Cherokee Nation four or five years prior to the Commencement of the rebellion, and was not again in the Indian Territory till subsequent to February 11 1867, and in its decision rendered on August 28, 1904, the Commission to the Five Civilized Tribes so found, its finding being concurred in by the Commissioner of Indian affairs, and affirmed by the Department, November 12, 1904 (Departmental letter I.T.D. 8198-04)

C. P. D. 755, John Morgan et al., E. D. Daniels,
of Claremore, witness:

- "Q Do you know the applicant, John Morgan? A. Yes sir.
Q Do you know his wife, Cynthia? A. Yes sir.
Q Do you know when they returned to the Cherokee
Nation after the war? A. Yes sir, I do.

-11-

- Q What year? A. In 1866
Q Where did you first see them? A. Right at Fort Gibson, sir.
Q Do you remember how they came there, or do you know?
A On the steamboat.
Q Where did it land at? A. Right there where the bridge is now.
Q You saw him and his wife get off? A. Yes sir, I moved them, I moved their goods off the boat.
Q You state you saw him in Fort Gibson in '66?
A Yes sir in November, October or November, the last of October or the first of November.
Q In '66? A. '66.
Q What was the name of that boat? A. Lee Etta."

In its decision rendered on March 5, 1904, the Commission to the Five Civilized Tribes found that John and Cynthia Morgan did not return to the Cherokee Nation after the rebellion till subsequent to January 19, 1867, and on September 27, 1904, (I.T. 5106-3011-04), its said decision was affirmed, the Department further finding that said applicants did not return to the Cherokee Nation till subsequent to February 11, 1867.

C. F. R. 196, Henry and Mariah Hayden. L. D. Daniels, of Claremore, witness:

- "Q Do you know H. C. Hayden? A. Yes sir.
Q Do you know Mariah, his wife? A. Yes sir, I am well acquainted with her.
Q Well, now, when do you remember of first seeing Mariah, the wife of Hayden, in the Indian Territory, after the war? A. The first time I remember of seeing her it was about December 29 or January 1, somewhere along there.

Q Where did you see her? A. I seen her on East Cabin, near about a mile and a half or two miles from where they now live.

Q Well, now, you say December? A. It was either the latter part of December or first of January, '67.

Q Do you remember who was with her up there? A. I remember Harry Still.

Q Harry Still? A. Yes sir, and there was a girl and a boy, I did not inquire who they were.

Q You have not seen Mariah since that time? A. Oh yes sir, I am very well acquainted with her."

In this case it was shown by satisfactory evidence that Mariah Hayden and her husband, Henry Hayden, had lived in and near Lawrence, Kansas, from the close of the rebellion till subsequent to the year 1873, and in its decision rendered on August 30, 1902, the Commission to the Five Civilized Tribes so found, its said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on November 28, 1902 (I.T.D. 6984-02). The Commission also found in C. F. 876 that the said Harry Still did not return to the Cherokee Nation after the rebellion within the time specified in the Whitaire decree, and said finding of facts was concurred in by the Commissioner of Indian Affairs (Land 63179-04), and affirmed by the Department on November 16, 1904 (I.T.D. 7678-04).

C. F. N. 223, Abraham Ward, et al, L. D. Daniels,
of Claremore, witness:

- Q Do you know the applicant (Abraham Ward)? A. Yes sir.
Q How long have you known him?
A I got acquainted with him in the fall of '66.
Q Where did you see him in the fall of '66?
A At Fort Gibson.
Q How did you happen to see him at Fort Gibson in '66?
A He come to Amanda and Ruthie Adair's and was going
to take them away and I asked him what he was going
to do with them, and he said he was going to
take them to his people.
Q You had never seen him before that?
A No sir, he was a stranger to me then.
Q What time did you see him there (Fort Gibson)?
A In the fall.
Q What time in the fall? A. First part of September
or the last part of August, somewhere along there.
Q How did you know it was in '66? A. Because I was
living right there and I noticed all the girls that
come in there."

In this case it was shown by satisfactory evidence
that the said Abraham Ward lived in Kansas from the close
of the rebellion till subsequent to the year 1868, and in its
decision rendered on July 10, 1903, the Commission to the
Five Civilized Tribes so found, its said finding being con-
curred in by the Commissioner of Indian Affairs and affirmed
by the Department on April 29, 1904 (I.T.D. 3284-04).

C.F.N. 375, Emily Walker et al. L. D. Daniels,
of Claremore, witness:

Q When did you first see her (Emily Walker) after the war closed? A. Well, I aint certain, I think it was just before the cholera, and the cholera was in '67, commenced along about April, or May or June.

Q You know how long before the cholera it was that you saw her that time? A. She was there after the surrender.

Q How long after the surrender? A. She was cooking up there in the quarters, and I couldn't state, just seen her every once in a while, cooking up there at the soldiers' quarters, Major Lugenberry.

Q That was the time you saw her there, the first time, you spoke about awhile ago? A. I see her there in '62, and I went to the Choctaw Nation the first day of March '62 and I came back in August, in September, on the tenth of August, and went back to the Choctaw Nation again in September, and came back in February '63, and I found Emily there then, cooking in these soldiers quarters there then.

Q Where? A. At Fort Gibson, sir.

Q Then when did you next see her after you saw her in '63? A. I saw her there when the Cherokees were mustered out, at the soldiers quarters, that was in June sometime, I think, '65.

Q Then when did you next see her? A. I aint positive of this fourth time I seen her, but I think she was there just before the cholera broke out.

Q You don't know how long before the cholera broke out?

A It was the same spring I think, in '67.

Q Did you see her yourself during the year of '66?

A Yes sir.

Q Where? A. At Fort Gibson.

Q What time in '66? A. It was the summer, I believe, or the fall; the soldiers was mustered out in '66, I don't know whether it was May or June, and Emily was there then, I am satisfied of that, because I seen her.

Q And then what time was it in '66 that you saw her?

A I told you awhile ago that it was near about the fall of '66, and I wasn't oer ain, but I seen her in the spring of '67 before the cholera broke out, that is just what I said."

In this case it was shown by convincing testimony that the applicant, Haily Walker, lived in Kansas from the year 1868 till subsequent to the year 1870, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, its finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department, on June 3, 1904, (I .T.D. 4236-04).

C.F.R. 380, Sandy Ross. L. D. Daniels, of Claremore, witness:

- Q You know when he (Sandy Ross) returned? A. Yes sir, I do.
- Q When? A. In the spring of '63.
- Q '63? A. Oh, of '66.
- Q How do you know that? A. I will explain how I know it; August '63, August '66, Lewis Daniels, Dug Webber and Hus Rogers, George Ross and four or five other Cherokee fellows went to Lewis Downing's on the river and this man was in one of them old houses there. I don't know whether it was Clem Vann's old place, or Tom Rider's, but it was close to the old Chateau place.
- Q That was in '66? A. That was in August, '66.
- Q How intimately have you known him since that time?
- A After that I don't know exactly how long it was it might have been a year or longer, probably two years, maybe three, he came to Gibson. I was there first and then he come afterwards and stayed there a long time. He was a preacher and he preached there for us; I never will forget him this side of the Judgment, every time he would take his text it was in the seventh chapter of Corinthians."

In this case it was shown by competent testimony, that the applicant, Sandy Ross, had continuously lived at Iola, Kansas, from 1866 till October, 1901, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs, and affirmed by the Department on June 3, 1904 (I.T.D. 4342-04).

In re Polly Nivens: Realizing its inability to do the subject justice in a word picture of this most notoriously corrupt wench, this office will refrain from the attempt, with the remark that if the matters set out below are not sufficient to impeach her character and show the utter worthlessness of her testimony, more evidence is at hand and can be secured on short notice.

In C. F. D. 723, Eliza Ratcliffe, Polly Nivens, of Fort Gibson, witness:

"Q How long have you known her (Eliza Ratcliffe)?

A I have known her ever since directly after peace was made,

Q Where did you see her directly after peace was made?

A In Fort Gibson."

In this case it was shown that the applicant was not in the Cherokee Nation, after the rebellion, till subsequent to the time specified in the Whitmire decree, and it

was so found by the Commission to the Five Civilized Tribes, and its finding was approved by the Department on November 12, 1904 (Departmental letter I.T.D. 8198-04) supra.

C.F.R. 375, Emily Walker. Polly Nivens, of Fort Gibson, witness:

"Q Do you know this applicant, Emily Grinnett(Walker)?

A Yes sir.

Q How long have you known her? A. I have known her all my life.

Q When did you first see her after the close of the war?

A I saw her when I was in Fort Gibson, cooking for the generals issuing rations to the refugees, just after the close of the war."

In this case it was shown that the applicant, Emily Grinnett Walker had lived in Kansas from the close of the rebellion till subsequent to the year 1870, and in its decision rendered on April 20, 1904, the Commission to the Five Civilized Tribes so found, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on June 3, 1904 (I.T.D. 4236-04), supra.

C.F.D. 79b, Florence Bratcher, applicant, claiming through her father, Ike Rogers, deceased: Polly Nivens of Fort Gibson, witness:

"Q Do you know Ike Rogers? A. Yes sir.

Q Did you know him before the war? A. No sir, just after peace was made.

- Q Where at? A. Fort Gibson.
Q How long after that did you know him? A. Off and on all the time after that.
Q When did you get acquainted with him? A. Well, it was just after peace, he had on soldier's clothes and I went to a dance and danced with him, and I asked him if he was a soldier and he said no, he just had on soldier's clothes then.
Q Did you see him after that up to the time he died?
A Yes sir, off and on.
Q Where did you see him? A. There in Fort Gibson."

In this case it was shown that the said Ike Rogers deceased, lived in Kansas from the close of the rebellion till the early '80's, and in its decision rendered on July 23, 1904, the Commission to the Five Civilized Tribes so found, said finding being affirmed by the Department on January 27, 1905 (I.T.D. 7144, 12692-04).

C F. D. 944, Sarah Nelson, et al. Polly Nivens, of Fort Gibson, witness:

- *Q How long have you known her (Sarah Nelson)?
A Pretty near all my life.
Q Where did you first see her after the war?
A After peace was made?
Q Yes? A. I first saw her at Fort Gibson, at Caroline Foreman's.
Q What year was that? A. It was just when peace was made, the first year after peace was made.
Q Have you known her since that time? A. Yes sir."

In this case it was shown that the applicant, Sarah Nelson, had lived in Kansas from the close of the rebellion till about 1873 or 1874, and in its decision rendered

on July 29, 1904, the Commission to the Five Civilized Tribes found that the applicant did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decrees, said finding being concurred in by the Commissioner of Indian Affairs and affirmed by the Department on August 22, 1904 (I.T.D. 6628-04).

C.F.D. 984, Fannie Nicholson, et al, claiming through Rhoda Bean, deceased, mother of Fannie Nicholson, Polly Nivens, of Fort Gibson, witness:

- "Q You know the applicant, Fannie Nicholson?
A Yes sir, known her all my life.
Q Knew her mother? A. Yes, sir, I was not much acquainted with her mother.
Q Do you know to whom her mother belonged at the beginning of the war? A. Yes sir.
Q Who was that? A. Old Mrs. Martha Bean.
Q Was her owner a citizen of the Cherokee Nation?
A Citizen of the Cherokee Nation.
Q At the beginning of the war? A. Yes sir."

In its decision rendered on July 29, 1904, the Commission to the Five Civilized Tribes found that the said Rhoda Bean, since deceased, "was not the slave of a Cherokee citizen, nor a free colored person residing in the Cherokee Nation, at the commencement of the rebellion", said finding being affirmed by the Department on September 1, 1904 (I.T.D. 6674-04), the Department saying "The main witnesses for the applicants have testified in numerous freedman cases in the most contradictory manner, and have been contradicted by reputable witnesses of the Nation."

In addition to the contradictory testimony of this witness as given in many freedman cases, particular attention is called to the case of Bessie Phillips, et al., Cherokee Freedman Doubtful case No. 832, in which the witness was impeached by the testimony of four reputable witnesses introduced in behalf of the Cherokee Nation. A copy of said impeaching testimony is hereto attached, for the convenience of the department in its investigation of the matters referred to in this protest.

In connection with the cases here under discussion the Department's attention is invited to the case of Nancy Humphries, Cherokee Freedman doubtful No. 30, now R 542. The record in this case shows that the said Nancy Humphries is a step-daughter of the said Joseph Riley, deceased, through whom the applicants herein, Ed Riley, et al., claim the right to enrollment, and further shows that the said Joseph Riley, deceased, and his wife, mother of the said Nancy Humphries, continuously lived in Kansas for ten or twelve years next after the close of the rebellion, and that the said Joseph Riley, deceased, did not return to the Cherokee Nation till some time in the 80's.

In view of the foregoing it is respectfully contended that the applicants in this consolidated case have

failed to establish by satisfactory evidence their right to Cherokee freedman citizenship, and under the rulings of the Department in the cases of Eliza Bryant, and others, supra., their applications for enrollment as Cherokee freedmen should be denied.

It is, therefore, respectfully requested that the Department reconsider this case and affirm the decision of the Commission to the Five Civilized Tribes, rendered herein on March 5, 1904, or, if after reconsideration, the Department is unable to grant this office's request, it is further requested that, in view of the fact that the testimony in this case was taken at a comparatively early period in the enrollment work, the record in said case be remanded for the purpose of permitting all parties at interest to introduce further evidence, which, no doubt, will result in producing a record absolutely conclusive, and from which a decision can be satisfactorily prepared.

In view of the fact that this office is perfectly familiar with the character and credibility of the three witnesses above named, together with that of several others

equally notorious, and is duty bound to take notice of the fact that their testimony is wholly unreliable, and in most cases absolutely worthless, it is respectfully recommended that the Cherokee Nation be not required to incur the needless expense of impeaching their testimony in cases where such witnesses testify.

Respectfully,

Through the

Commissioner of Indian Affairs.

L M B

Commissioner

Incl. B 45

DEPARTMENT OF THE INTERIOR,

Office of the Assistant Attorney-General,
WASHINGTON.

J. R. W.
W. C. P.
P. W. C.

I.T.D
5726, 11070-1904.
17298-1906.

February 15, 1907.

The Secretary of the Interior.

sir:

I received, by reference of January 17, 1907, for opinion, the communication of the Commissioner to the five civilized Tribes in the applications of Ed Riley and others for enrolment as Cherokee freedmen. The Commission having denied those applicants, the Department on review of the records reversed that action, September 8, 1905. June 15, 1906, the Commissioner of his own motion, without a complaint or step by the action or its counsel for reconsideration or review of the departmental decision, volunteers as champion for the Cherokee Nation to obtain for it a relief that it does not ask, and filed a protest against the action of the department. The Commissioner states that:

The department has repeatedly ruled that the burden of proof is upon the applicants, and that they must show by satisfactory, clear, and convincing evidence that their right to Cherokee citizenship is perfect (citing eight decisions, none of which support his contention).

In view of the fact that the provisions of Article IX of the treaty of 1866 (August 11, --14 Stat., 799), were in a measure imposed upon the Cherokee Nation as a penalty for its conduct during the late rebellion, the justice of the above ruling become apparent, under the authority of these rulings,

It is that this office, for reasons set out below, begs leave to file its protest against the action of the department in reversing said decision of the commission to the five civilized tribes, rendered March 5, 1904, wherein it was held that Ed Riley et al., doubtful cases, 696, 707, 708, 709, respectively, are not entitled to enrollment as Cherokee freedmen.

The commissioner then refers to three of applicants' witnesses, John Landrum, Polly Nivens and L.D. Daniels, as being unreliable, "valueless in determining facts at issue in any case in which they testify", and gives short excerpts of testimony given by one or more of them in thirteen cases, in five of which each of them testified on behalf of the applicants, and the applications were notwithstanding denied. The commissioner then concludes:

In view of the foregoing it is respectfully contended that the applicants in this consolidated case have failed to establish by satisfactory evidence their right to Cherokee freedman citizenship, and under the rulings of the department, and others, supra, their applications for enrollment as Cherokee freedmen should be denied.

It is, therefore, respectfully requested that the Department reconsider this case and affirm the decision of the Commission to the five civilized Tribes, rendered herein on March 5, 1904, or, if after reconsideration the Department is unable to grant this office's request, it is further requested that, in view of the fact that the testimony in this case was taken at a comparatively early period in the enrollment work, the record in said case be remanded for the purpose of permitting all parties at interest to introduce further evidence, which, no doubt, will result in producing a record absolutely conclusive, and from which a decision can be satisfactorily prepared.

I have examined the eight departmental decisions cited

by the Commissioner and none of them upholds so strenuous and rigid rule of proof of freedman's right as stated by the Commissioner that the proof must be "satisfactory, clear, and convincing that their right..... is perfect." This is substantially that the proof must be "beyond reasonable doubt", a rule never applied, that I am aware, in any judicial proceedings except criminal prosecutions. I am of the opinion such requirement would work great injustice and hardship, where proof has to be made of the date of reversion to the domicile or origin after a lapse of forty years, when the majority of those then living have died and much of the evidence once available has been lost by death of witnesses and the infirmity of human memory.

It is true that applicants have the burden of proof, but the Department has never established a rule as to the clearness, definiteness, cogency, and certainty of the proof more strict than in proceedings in civil and administrative causes, and I am of opinion it should not. I am unable to concur in what is apparently the Commissioner's view of the degree of proof required, and it has not been sanctioned by the department in any of the cases cited. If it were sanctioned, it would be erroneous, and ought to be receded from. Article IX of the treaty of 1866 was the same rule adopted by the people of the United States in all the states and

Territories within the national sovereignty, not as a penalty, but as an act of justice and atonement for a crime of more than two centuries. If any change of the ordinary rules of proof is to be made, the lapse of time and eminently just character of Article IX would dictate liberality, rather than strictness in the proof required. It is well recognized rule of human life and conduct that reversion to the domicile or origin and to the allegiance of birth is easy -- is what is rather expected to occur, and legal presumptions are in its favor, not against it.

I am of opinion also that in absence of notice to the applicants or to their counsel of the contention of the commissioner, with opportunity to them to respond to it, it would be improper for the department to take the case into consideration with view to reversing its former action.

I have carefully read the evidence, and it is clear that Joseph Riley was a Cherokee slave at the outbreak of the rebellion, once to a Cherokee named Riley -- from whom his name was probably taken -- and later to one by name of Foreman. Joseph Riley and his wife are dead. The applicants were born after 1866. There was a reversion of the parents to the allegiance and domicile or birth. The applicants were born in the nation and have always resided there. Evidence in the record justifies and supports the finding and judgment of the department. The Cherokee Nation.

-5-

has not asked a reconsideration of the decision of September 8, 1905, and as the nation has been content with it so long, its application, if now made, would properly meet with little favor in view of the fact that the rolls must be closed by March 4, 1907, and favorable consideration of such application would amount to a denial of applicants' enrolment.

I am, therefore, of opinion that the decision made by the department should not now be disturbed.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved February 15, 1907.

E. A. Hitchcock
Secretary.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

RE.

I.T.D. 3678-1907.

February 19, 1907.

L.R.S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory,
Sir:

There is inclosed a copy of an opinion of the Assistant Attorney-General for this department, of February 15, 1907, approved the same day, in the matter of the application of Ed Riley, et al., to be enrolled as Cherokee freedmen.

In accordance with said opinion the decision of the department of September 8, 1905, reversing your decision relative to the applicants, is adhered to. You are accordingly authorized to enroll as Cherokee freedmen such applicants, viz: Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley (daughter of Richard Riley), and Fred Riley.

The papers in the case and copies of said opinion and this letter have been sent to the Indian Office.

Respectfully,

1 inc. and 10 for Ind. Of.

Thos Ryan,
First Assistant Secretary.

A.F. Mc.
2-19-07.

69Ks. jv. h. 54collect. COVT. 5:24p.m.

W. Washington, D.C., Feb. 19, 1907.

Commissioner to Five Tribes,

Muskogee, I.T.

Commissioner ordered to enroll Ed Riley, Mott Riley, Jessie Riley, Howard Riley, Annie Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley, and Fred Riley as Cherokee freedmen.

A. F. McGarr.

Cherokee Freedmen
D 696 et al.

Washoe, Indian Territory, February 27, 1907

W. W. Hastings,

Attorney for Cherokee Nation?

Washoe, Indian Territory.

Dear Sir:

September 8, 1905, the Department reversed the decision of the Commission to the Five Civilized Tribes rejecting the application for the enrollment of the applicants embraced in the consolidated Cherokee freedman cases of Ed Riley et al. The Department further considered the case at the request of the Commissioner, and on February 19, 1907, in a letter addressed to this office, adhered to its decision of September 8, 1905, favorable to the applicants.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
D 696 et al.

Washago, Indian Territory, February

Starr & Patten,

Successors to Elms & Bulger,
Vinita, Indian Territory.

Gentlemen:

September 8, 1906, the Department reversed the decision of the Commission to the Five Civilized Tribes rejecting the applications for the enrollment of the applicants embraced in the consolidated Cherokee freedmen cases of Ed Riley et al. The Department further considered the case at the request of the Commissioner, and on February 19, 1907, in a letter addressed to this office, adhered to its decision of September 8, 1906, favorable to the applicants.

Respectfully,

L M B

Commissioner

Wahkago, Indian Territory, February 27, 1907

The Honorable,

Secretary of the Interior,

Sir:

February 19, 1907 (I.T.D. 2878-1907), the Department in accordance with an approved opinion of the Assistant Attorney General of February 18, 1907, ordered this office to enroll Ed Riley, Matt Riley, Jessie Riley, Howard Riley, Annie Riley, Sarah Flynn, Oliver Flynn, Joseph Flynn, Fannie Flynn, Serena Flynn, Nettie Flynn, Castella Flynn, Gracie Flynn, Richard Riley, Willie Riley, Mary Riley and Fred Riley, as Cherokee Freedmen.

In accordance with such direction there is enclosed for Departmental approval a schedule containing the names of these citizens. It will be noted that no roll numbers have been given the persons whose names appear upon the schedule herewith transmitted. This action was taken in accordance with procedure reported by me to the Department

Secretary-6

on January 23, 1907 and approved by the Department's telegram of February 9, 1907. It is recommended that numbers be placed upon this schedule in consecutive order, by Mr. McGarr, the employee of my office now in Washington.

You are advised that the Cherokee Nation protests against the enrollment of the persons whose names appear upon this schedule, and its protest filed by its attorney February 23, 1907, is enclosed.

Respectfully,

Commissioner

Through the Commissioner of
Indian Affairs.

Encl. B-56

Cherokee Freedmen
D 700

Muskogee, Indian Territory, February 27, 1907

Richard Riley,

Mayden, Indian Territory.

Dear Sir:

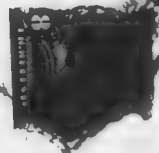
You are advised that your application for the enrollment of yourself and children as Cherokee Freedmen was granted by the Secretary of the Interior on February 19, 1907. You will be advised when your names have been placed upon a schedule of Cherokee Freedmen approved by the Secretary of the Interior.

Respectfully,

L M B

Commissioner

11237



Department of the Interior.

Commission to the Five Civilized Tribes,

MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, \$300.

Richard H. Lee,

Agent, Indian Territory.

MAR 24 1894
SHAWNEE, IND.

Cher Fr 1559

(jacket missing)

Cher Fr 1559

Cher Fr 1560

Cher Fr 1560

Cherokee Freedman No. 1560.

John Ross.

For record see Freedman
R. 254.

Cher Fr 1561

Trans. from M. M. 49

Cher Fr 1561

UNITED STATES OF AMERICA,

#

WESTERN JUDICIAL DISTRICT,

SS.

AFFIDAVIT.

#

INDIAN TERRITORY

Before me the undersigned, a Notary Public, duly commissioned and acting as such within and for the Western District, Indian Territory, personally appeared, James Vann, who being first duly sworn, according ~~him~~ to law, deposes and says, that he is a duly recognised Cherokee citizen, and that Rufus Vann is his lawful son, having been born on the day of December, 1879, that ^WNacy Vann, who is now deceased, was his lawful wife, and mother of said Rufus Vann, that his son Rufus Vann was born, at "Goose Neck" Cherokee Nation, I. T. Dec. 1879, and have, always lived in the Cherokee Nation, and have at every time of payment, since his birth, received the several payments, made to the Cherokee Citizens, including the last of these payments. That soon after his birth, on or about 1880, said Rufus was Enrolled by him as a Cherokee Citizen, and as afore-mentioned, and have been always recognised as a Cherokee freedman, and received every payment. That at the time he and his other minor children, were enrolled on the last list, he also made application, for the further enrollment of ^{Said} Rufus, but was apprised that he could not so do, as Rufus was not at that time a minor. That, being extremely poor, and unable to make the trip to the land office, at the time, Rufus from ignorance and neglect, did not appear at the land office until the 8th day of August, 1904. He further states that it would work a great hardship on the young man Rufus Vann, to be deprived of his allotment, being, born a Cherokee Citizen, always so recognised by every one, and have heretofore enjoyed all the rights of these people.

James Vann

Subscribed and sworn to before me this 11th day of August, 1904.

W. H. Garrison
Notary Public.

My commission expires the 7th day of May, 1908.

UNITED STATES OF AMERICA #
WESTERN JUDICIAL DISTRICT, # SS.
INDIAN TERRITORY. #

AFFIDAVIT.

Before me the undersigned, a Notary Public duly commissioned and acting as such within and for the Western District of the Indian Territory, personally appeared, Jennie Vann, who being first duly sworn according to law deposes and says, that she is a freed woman of the Cherokee Nation, I. T., and have always enjoyed the rights and privileges of the said Nation. That James Vann, is her lawful son, and Rufus Vann is her grandson, being the son of James Vann, that Rufus Vann, is and has always been considered a Cherokee citizen, and have always enjoyed the rights, and privileges of the Nation, up to the present time. That said grandson, Rufus Vann is uneducated, poor, and without any means, and have been practically so ever since he was grown.

Jennie Vann her mark

Witnesses to mark:-

W. L. Turner
W. C. Carver

Subscribed and sworn to before me this 11th day of August, 1904.

W. H. Ambler
Notary Public.

My commission expires the 7th day of May, 1908.

30835

no ever since he was grown .

is understood, poor, and without any means, and have been pros-
 tecton, up to the present time . That said Grandson, Rufus Ann
 citizen, and have always enjoyed the rights, and privileges of the
 Ann, that Rufus Ann, is and has always been considered a Cherokee
 son, and Rufus Ann is her Grandson, being the son of James
 and privileges of the said Nation. That James Ann, is her son
 of the Cherokee Nation, I. T. , and have always enjoyed the rights
 sworn according to law deposes and says, that she is a freed woman
 Territory, personally observed, Jennie Ann, who being first only
 acting as such witness and for the Western District of the Indian
 Before me, the undersigned, a Notary Public duly commissioned and

INDIAN TERRITORY.

WESTERN JUDICIAL DISTRICT,
 UNITED STATES OF AMERICA

 # ss.
 #

VALIDITY.

Department of the Interior,

Aug. 24

1904

Respectfully referred to the
 Commission to the Five Civil-
 ized Tribes for consideration
 and appropriate action.

Thos. H. ...
 Acting Secretary

PETITION OF RUFUS VANN, CHOUTEAU, IND. TERR.

TO THE HON. E. A. HITCHCOCK, SECRETARY OF THE INTERIOR, WASHINGTON, D. C.

Your petitioner respectfully represents

- 1 That he is a citizen of the Cherokee Nation, being the offspring of Cherokee-Freedmen parents, and have lived all his life in the neighborhood of Chouteau, Ind, ~~in~~ Terr.
- 2 That he is now twenty five years of age , having been born on or about the - day of December, 1879, at "Goose Neck" in the Cherokee Nation.
3. That he is the son of James Vann, and Nancy Vann, and the full brother of Sam, Will, George, and Cleveland Vann; and the full brother of Martha Vann.
4. That his mother Nancy Vann, died in the Cherokee Nation, at "Goose Neck" , on or about the 12th of March, 1886, but, that his father, brothers and sisters , mentioned above are all living , except Sam, who died on or about the 19th November, 1902., and, are duly enrolled citizens of the Cherokee Nation, and will receive their pro-rata share of the lands and moneys of the Cherokee Nation;
5. That your petitioner is ignorant and un-educated, and, as a consequence , was not fully advised about the conditions of enrollment and filing in the Cherokee Nation, and, having always received all the payments , regularly, including the last payment, was under the impression that he was duly enrolled as a Cherokee Freedman , citizen, and accordingly did nothing more about further enrolling himself;
6. But , that having on the 8th of August, 1904, attended at the Dawes Commission office, at Muskogee, I. T. , to see about filing on his allotment, was informed, that he was not duly enrolled, and thus not entitled to any allotment of the Cherokee Nation;
7. Believing that thus shutting him from the rolls, and depriving him of his allotment, would work an irreparable injury upon him, and his future, he, now, respectfully, beg to submit his case to your careful advisement, earnestly begging you every consideration, for the rectification, of any and all mistakes occasioned by his neglect and ignorance, and your

2.

petitioner , shall in duty bound ever pray,

Witnesses to me

W. L. Frazier

Notary Public

Refers Vann Hixmark

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., FEBRUARY 19, 1906.

In the matter of the alleged application for the enrollment
of Rufus Vann as a Cherokee Freedman.

APPEARANCES:

For Applicant, I. P. Bledsoe.
For Cherokee Nation, No Appearance.

RUFUS VANN, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Rufus Vann.
Q How old are you? A I don't know exactly, must be about 27 years
old I guess.
Q What is your post office? A Choteau.
Q You are a colored man? A Yes sir.
Q Do you claim to be a Cherokee freedman? A Yes sir.
Q What is the name of your father? A James Vann.
Q Is he living? A Yes sir.
Q Is he a Cherokee freedman? A He claims to be, yes sir.
Q What is the name of your mother? A Her name was Nancy.
Q Is she living? A No sir, she is dead.
Q What was her name at the time of her death? A Nancy Vann.
Q Have you some brothers and sisters? A Yes sir.
Q Give their names? A Will is the oldest next to me. William,
George, Cleveland, one sister named Martha.
Q What is her name now? A Her name is Williams now.
Q Got any more? A Yes sir, one, it is dead, the oldest one, that
is Sam.
Q Did you ever make application to the Dawes Commission for en-
rollment as a Cherokee freedman? A I was down here last August
I think it was.
Q Was that down at the Commissioner's office here? A Yes sir.
Q Did you ever prior to that time make application for enrollment?
A No sir.
Q It was this past August that you were down there? A I think it
was in 1904, I think it was.
Q Have you ever been recognized as a citizen of the Cherokee Nation?
A Yes sir.
Q In what way? A I suppose so, I drew money three times I know.
Q Did any one ever make application to the Dawes Commission for your
enrollment? A Father said he did at Fort Gibson, but I come
here in August I find that he didn't.

BY MR. BLEDSOE:

- Q Why did you not make application sooner to the Dawes Commission
than last August? A I couldn't get around, wasn't able to go
away, wasn't able to come ~~here~~ here.
Q Were you of the impression that your father had made application
for you? A Yes sir.
Q Where have you lived all the time? A Right there at Choteau.
Q You have never had a home outside of the Cherokee Nation? A No
sir.

- Q These children you named your full brothers and sisters? A Yes sir.
- Q Why wouldn't the Dawes Commission--- when you made application did they make any statement to you when you were here? A They just talked like it was too late or something like that.

-----oOo-----

Geo. H. Lesley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lesley

Subscribed and sworn to before me this 8th day of March, 1906.

Myron White
Notary Public.

C.F.B.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of James N. Vann, et al., as Cherokee freedmen, consolidating the applications for the enrollment of:

James N. Vann, et al-----Cherokee freedmen 666
Martha Williams -----Cherokee freedman 1216
Rufus Vann-----Cherokee WM 49

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by James N. Vann for himself and minor children, William, George and Cleveland Vann; by Martha Williams for herself and by Rufus Vann for himself. The records further show that on July 10, 1903, the Commission to the Five Civilized Tribes rendered its decision herein granting the application for the enrollment of said Martha Williams as a Cherokee freedman, and that her name was included in the partial roll of Cherokee freedmen approved by the Secretary of the Interior November 16, 1904, opposite No. 3850, and that on December 28, 1905, the Commissioner to the Five Civilized Tribes rendered his decision herein denying the application for the enrollment of James N. Vann, William Vann, George Vann and Cleveland Vann as Cherokee freedmen, and that said decision was duly forwarded the Department for review; that thereafter on January 7, 1907 (I.T.D. 24468-06), motions for a rehearing having been filed in the case of James N. Vann, et al., the Department returned said case to this office for further hearing and readjudication, and rescinded its action approving the partial roll of Cherokee freedmen above mentioned insofar as it referred to the said Martha Williams, and authorized this office to readjudicate her case with the case of James N. Vann. Further proceedings in the matter of said applications were had at Muskogee, Indian Territory, February 7 and 11, 1907.

THE EVIDENCE IN THIS CASE SHOWS: That the principal applicant herein, James N. Vann, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of said rebellion he left the Cherokee Nation, and returned there-to and established an actual personal bona fide residence therein after the close of the war within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al.,

and as provided by Section three of the Act of Congress approved April 26, 1906 (34 Stat. 137), for the return of freedmen to the Cherokee Nation, and that he has since continuously resided in the Cherokee Nation. The evidence further shows that all the other applicants herein were born since 1866, are children of the said James N. Vann, and have continuously resided in the Cherokee Nation since birth.

IT IS; THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), James N. Vann, William Vann, George Vann, Cleveland Vann, Wartha Williams and Rufus Vann are entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly granted.

(Signed) Tams Bixby
Commissioner

Dated at Muskogee, Indian Territory,

this Feb 28 1907.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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CHIEF CLERK,

CHEROKEE LAND OFFICE.

DEAR SIR:

The records of this office show

listed on Cherokee card No.

to be prima facie entitled to enrollment as of the Cherokee Nation for the following reason,

viz:

Respectfully,

Commissioner.

Dated

January 17, 1907

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

CHIEF CLERK,

CHEROKEE LAND OFFICE.

DEAR SIR :

The records of this office show

listed on Cherokee card No.

to be prima facie entitled to enrollment as

of the Cherokee Nation for the following reason,

viz :

Respectfully,

Commissioner.

Dated

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE

I.T.D. 6939-1904.

August 24, 1904.

4/25
DEPARTMENT
Rufus Vann,

Choteau, Indian Territory.

Sir:

The Department is in receipt of your letter of the 11th instant, submitting an affidavit in support of your claim to a right to be enrolled as a Cherokee citizen, and requesting careful consideration of the same.

You are advised that your communication has been referred to the Commission to the Five Civilized Tribes for consideration and appropriate action.

Respectfully,

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13
Edward Dawson
Chief Clerk.

Cherokee F.
666.

COPY

Muskogee, Indian Territory, February 28, 1907.

I. P. Bledsoe,

Attorney for James N. Vann, et al.,
Chouteau, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting the application for the enrollment of James N. Vann, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED [Signature]

Commissioner.

Encl.C-96
LMC

Cherokee F.
666 et al.

COPY

Muskogee, Indian Territory, February 28, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, granting the application for the enrollment of James N. Vann, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams Bixby*,
Commissioner.

Encl.C-160
LMC

2. The first
of the month
of the year

INDEXED

Vann, Rufus,
Choteau, I. T.,
Cherokee Nation,
August 21, 1904.

Petition that he be enrolled
as a Cherokee.

Cher Fr 1562

Trans. from Cher Fr R 678

Cher Fr 1562

VV

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Chelsea, I.T. June, 8th 1901.

In the matter of the application of Amanda Hill for the enrollment of herself and three children as Cherokee freedmen; she being sworn by Commissioner T.B. Needles, testified as follows:

Mellette & Smith attorneys for the applicants

W.W. Hastings attorney for the Cherokee Nation.

(Examined by Com'r Needles)

- Q What is your name? A. Amanda Hill.
Q How old are you? A. 29.
Q What is your post office address? A. Vinita.
Q In what district do you live? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Have you ever applied to be enrolled as a Freedman of any other tribe or Nation? A. No sir.
Q Who do you desire to have enrolled besides yourself? A. Three children.
Q What are their names? A. Della Hill.
Q How old? A. 11 years.
Q Next one? A. Flossie.
Q How old? A. 9 years.
Q Next one? A. Sadie.
Q. How old? A. 8 years.
Q Are these children all living? A. Yes sir.
Q Are you married? A/ Yes sir I have been.
Q What is your husband's name? A. George Hill.
Q Is he living? A. Yes sir.
Q Is he a citizen? A. Yes sir.
Q Are you and he separated? A. Yes sir.
Q Is your name on the 1880 roll? A. Yes sir if my father is
Q What is your father's name? A. Johnson Webber.
Q Is he living? A. No sir.
Q What is your mother's name? A. Marguerite Ward.
Q Is she living? A. No sir.
Q What was the name of Marguerite's father? A. Peter Ward.
Q Is he living? A. Yes sir.
Q What was her mother's name? A. Louisa Ward.
Q Did you ever live in Illinois district? A. No sir only in Cooweescoowee district.
Q Did you draw what is known as the Cherokee strip money? A. Yes sir.
Q Your name is on the Kern Clifton roll? A. Yes sir.

The 1880 and 1896 rolls examined and the applicants not found.

The Kern Clifton roll examined and the names of the applicants found thereon as follows:

Page 149 No. 3678,	Amanda Hill,	Cooweescoowee district.
Page 149 No. 3679	Della Hill	"
Page 149 No. 3681	Sadie Hill	"
Page 149 No. 3680	Flossie Hill	"

ABRAHAM WARD, called and sworn before Com'r Needles, testified as

Amanda Hill 2.

follows on the part of the applicant:

By Mr. Mellette:

- Q What is your name? A. Abraham Ward.
Q Are you the same Abraham Ward who applied to be enrolled a short time ago? A. Yes sir.
Q Your father is Peter Ward, the same one who has already applied? A. Yes sir.
Q Do you know this applicant? A. Yes sir.
Q What relation are you to him? A. None sir.
Q Do you know her mother's Name? A. Marguerite Webber.
Q Who was she? A. A sister of mine and named Ward before she married.
Q When was she born? A. Before the war.
Q Was she a slave? A. Yes sir.
Q Who owned her? A. Jim and Eliza Ward.
Q Who did she return to the Cherokee Nation with after the war? A. With me and Johnson Webber and my father.
Q How long have you known her? A. Ever since her birth.
Q Where does she live? A. Big Creek, Cherokee Nation.
Q Did her mother live on Big Creek until she died? A. Yes sir.
Q This applicant, as I understand it, is a daughter of your dead sister Marguerite Ward? A. Yes sir.
Q And she had married one Johnson Webber? A. Yes sir.

By W.W. Hastings:

- Q Where did she marry Johnson Webber? A. In Kansas.
Q Was that her first husband? A. Yes sir.
Q Was she ever married before? A. Not as I know of.
Q Is this their oldest child? A. No sir one that is dead is older.
Q How much older is the one that died than this one? A. I dont know.
Q Is Johnson Webber dead? A. Yes sir.
Q How long did he live after he came down here? A. He has been dead about sixteen years.
Q What became of him after he come here? A. Lived on the creek there.
Q Did he ever go back to Kansas? A. Not as I know of.
Q You would know if he had wouldn't you? A. I dont know of him going back.
Q Staid right there with your sister? A. Yes sir.
Q How long has your sister been dead? A. 20 or 25 years.
Q This girl was small when she died? A. Yes sir.
Q Did this applicant's mother come back with you? A. Yes sir.
Q And her mother and father? A. Yes sir.

By Mellette:

- Q Johnson Webber was the husband of this child's mother? A. Yes sir
Q And she was your sister? A. Yes sir.
Q He returned with his wife, the mother of this girl-- they returned together to this country after the war with you and your family? A. Yes sir.
Q Was he a brother of Sam Webber? A. Yes sir.
Q Where had he lived before the war? A. I dont know, I wasn't acquainted with him then.

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Q What is your name? A. Sam Webber.

Q Are you on the authentic

Q Did you have a brother name

Q Was he the Johnson Webber who was the husband of Marguerite Ward?

Q Was he a slave in the Cherokee nation? A. Yes sir.

Q He had a mistress, Aky Webber, same one that owned me.

Q Was she a Cherokee citizen? A. Yes sir.

Q When did Johnson Webber come back to the Cherokee Nation after the war? A. With the Ward family.

Q. Did he come with Abraham Ward? A. Yes sir.

Q You testified in his case this morning didn't you? A. Yes sir.

Q. Where did he marry Marguerite Ward? A. In Kansas.

Q Did she come with him down here? A. Yes sir.

Q Did he have any children by her? A. Two.

Q Is this one here the oldest? A. The youngest.

Q How much older was the other one than this one? A I cant tell.

Q How much older was your sister than you? A I dont know.

Q Didn't your folks ever tell you? A No sir.

Q How much older was the other one than this one? A. I dont know.

Q You know '66 dont you? A. Yes sir and a whole lot more but I cant keep the ages of these children.

Q They wasn't your children? A. No sir.

Q You didn't keep a record of the ages of your brothers/ children did you? A. No sir I didn't.

Q These were your brother's children though? A. Yes sir.

By the Commissioner: (of applicant)

Q Did you and your sister grow up together? A. Yes sir.

Q Didn't you hear any of your family say how much older she was than you? A I dont know.

Q Was she 20 years older than you. A. I dont know.

Q Was she 50 years older than you? A. I don't know that? A.

Q Was she a hundred years older than you? A. I dont know that.

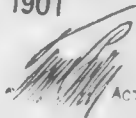
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J.D. 625.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

JUN 8 1901



ACTING COMMISSIONER

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN

Date

Post Office

District

COOWEESCOOWEE.

1. Name

Age

Owner's name

Citizenship

Year

Page

No.

District

Parents:

Father

Citizenship

Mother

Citizenship

2. Name of wife

Age

Owner's name

Citizenship

Year

Page

No. 3678

District

Parents:

Father

Citizenship

Mother

Citizenship

Names of Children:

23.

Hella Hill

Year

Page

No.

Dist.

31.

Gessie "

Year

Page

No.

Dist.

48.

Sadie "

Year

Page

No.

Dist.

6.

Year

Page

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No.

Dist.

12.

Year

Page

No.

Dist.

Application made by

Stenographer

X Ref 19607

Ballette and Smith at top for applicants.

Melette & Smith, for applicants.

W. W. Hastings for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Chelsea, I. T. June 8th, 1901.

In the matter of the application of Abraham Ward for the enrollment of himself and one child as Cherokee freedmen; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A Abraham Ward.
Q How old are you? A 55.
Q What is your postoffice address? A Wymer.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee freedman? A Yes sir.
Q Who do you desire to have enrolled besides yourself? A One boy Artes Ward.
Q How old is he? A 15 years old.
Q Are you a recognized Cherokee freedman? A In part I am.
Q Is your name on the 1880 roll? A No sir.
Q Is it on any of the rolls? A The Kern Clifton and on the Wallace roll.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the applicant not found thereon.
The 1896 census roll of the Cherokee Nation examined and the name of the applicant not found thereon.
The Kern Clifton roll examined and the names of the applicants found thereon as follows.
Page 125, No. 3117, Abraham Ward, Cooweescoowee District
Page 125, No. 3124, Artes Ward, Cooweescoowee district,
The Wallace roll of the Cherokee Nation examined and the name of the applicant found thereon as follows:
Page 152, No. 3162, Abraham Ward, Cooweescoowee district

- Q Where were you born? A On Baties prairie.
Q In the Cherokee nation? A Yes sir.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A Jim and Eliza Ward?
Q Were they Cherokee citizens? A Yes sir.
Q Were you taken out of the Cherokee nation during the war?
A No sir, after I was liberated I went into the Government service
Q Where did you go? A In '62 I went into the Union Army.
Q What regiment? A Blount's Division?
Q Where did you enlist? A I didn't enlist, I was working for the officers, body servant.
Q Where did you go? A Went to Cane Hill, Arkansas, waited on the officers and after that I drove a Government team.
Q When did you return to the Cherokee Nation? A In the spring of '66.
Q Have you lived here continuously ever since? A Yes sir.
Q Are you married? A Yes sir, but my wife is dead.
Q Who was the mother of Artes? A Caroline.
Q Was she a slave? A Yes sir.
Q To whom did she belong? A The Adairs.
Q Was her name on the 1880 roll? A No sir.
Q Was her name Caroline Adair before you married her? A Yes sir
Q When did you marry her? A In '65
Q Where? A Up in Kansas.

Q Did you return with her? A Yes sir, I come on down and then went back in the fall and brought her.

Q How much of a family did you have then? (Answer unreadable on copy) Looks like "None, all my children were born here.")

Q Did you live with Caroline until her death? A Yes sir.

Q Who were your owners? A Jim and Louisa Ward.

Q And they were Cherokee citizens were they? A Yes sir.

By Mr. Mellette:

Q Have you a place on the Public Domain of the Cherokee Nation?

A Yes sir.

Q How long have you owned it? A Since 66.

By Mr. W. W. Hastings: The above question as to owning a place is objected to by the representative for the Cherokee Nation because it does not tend to prove the issue.

By Mr. Melette:

Q You have never lived out of the Cherokee nation since your return in '66? A No sir.

By Mr. Hastings:

Q Your father was Peter Ward? A Yes sir.

Q Are you his son? A Yes sir.

Q Are you his oldest son? A Yes sir.

Q You went to Mound City, Kansas, didn't you? A Yes sir, after I quit driving Government teams.

Q That is in Linn County? A Yes sir.

Q Do you know Cusky Brown? A Yes sir.

Q Did you see him in Kansas? A Yes sir.

Q What year did you see him there? A I think it was '67.

Q You knew Joe Ward? A Yes sir, we was raised together.

Q He was your young master? A Yes sir.

Q You saw him in Kansas too, didn't you? A Yes sir, in '65

when I was driving a Government team he come to our house.

Q Was that after or before the war closed? A Same year that the war closed. I saw him in Mound City and he went up to my father's house, I was living with my father.

Q You were not married then? A No sir, married directly after.

Q What year did you marry? A In the fall of '65, after he was up there.

Q How old is your oldest child? A He is 32 I think it is according to my judgment.

Q What time in the year was that oldest child born? A In September.

Q Was he 32 last September or this coming September? A This coming September.

Q That is your best judgment? A Yes sir.

Q Did you come back with your father, Peter Ward? A No sir, not the first time I come.

Q Didn't you testify before that you come back with your father?

A No sir, I went to Fort Gibson the first time and the next time I come down with him.

Q How long after that did you come down again with your father?

A The same year I come to Fort Gibson in the spring and come back to Kansas and back here again in the fall with my father.

Q You had married then? A Yes sir.

Q You come down the last time in November? A Yes sir.

Q Who came with you the first time? A Sim Mosley or Rogers.

- Q Came through on horseback? A Yes sir.
- Q How long did you stay here then? A Said a considerable time, had kin folks here.
- Q Who? A Berry Mays and Ef. Mays.
- Q Well how long did you stay there? A About a month or so.
- Q How long after that did you come with your father? A In November.
- Q You located permanently that last time? A Yes sir, but I was on Big Creek when I went back from Fort Gibson to Kansas the first time.
- Q How far did you locate from Snow Creek? A 8, 10 or 12 miles
- Q What direction from the mouth of Snow Creek? A Northeast.
- Q Who was living there in that country then when you went through from Fort Gibson to Kansas? A Sam Webber, George Meigs Peter Meigs, old man Sam Webber.
- Q Had they houses there then? A Yes sir.
- Q Had they made a crop of corn that year? A Not much; there was a drought there, that was when I went up the first time.
- Q What time was it when you went up? A In August.
- Q Did Sam and his daddy have a crop of corn in? A Not much, sort of a patch.
- Q That was in '68? A No sir.
- Q Your young master, Joe Ward testified that he saw you there in '67? A I was traveling up there through that country and saw him the year of the war closing because he went to my house with me.
- Q Did you ever see Will and John Ward or any of your young masters since the war? A Yes sir.
- Q Where? A On Big Creek.
- Q When? A I had been there about two years.
- Q Did you locate right on the place where you now live? A Yes sir.
- Q And have lived there ever since? A Yes sir.
- Q Is your father living? A Yes sir.
- Q He lived there with you? A Yes sir.
- Q What Cherokees are living along there? A Albert Morris.
- Q Was he living there when you come? A No sir.
- Q How far was Jim Martin living from there when you come there? A No sir, he was not living there and the Delawares were not living there either of them.
- Q You anticipated that question didn't you? A I know they was not living there then.
- Q What made you answer that question before I had asked it? A I heard some of the people saying that they was up there then and I am telling you right. I thought it was coming and I was going to tell you about it.
- Q Where did you get anything to eat that fall? Get it from these Webbers and Sanders? A We brought some along with us.
- Q Do you know Jess Brown and Tecumseh? A Yes sir.
- Q They were up in Kansas looking after some pension matters, weren't they? A I don't know.
- Q Was Sam Webber living in a house up there? A Yes sir.
- Q Who did you stay all night with up there? A With Peter Meigs
- Q That was in August? A Yes sir.
- Q 1866? A Yes sir, latter part of August.
- Q Did old Peter Meigs have a crop there then? A Yes sir, a little one.

By the Commission:

Q Why is your name not on the 1880 roll? A I don't know, the census takers didn't come there.

Q Did you ever apply to have your name enrolled? A No sir, The reason I didn't was because several men went down there and tried it and come back and said it was not necessary to go down there-as they was not enrolling us people.

L. D. Daniels, called and sworn as a witness before Com'r NT. B. Needles, testified as follows for the applicants:

By Com'r Needles:

Q What is your name? A L. D. Daniels.

Q What is your age? A 56.

Q What is your postoffice address? A Claremore.

Q Are you a recognized freedman of the Cherokee Nation?

A Yes sir.

Q Do you know the applicant? A Yes sir.

Q How long have you known him? A I got acquainted with him in the fall of '66.

Q Donyou know if he was a slave? A No sir, I don't.

Q Where did you see him in the fall of '66? A At Fort Gibson.

Q Have you known him ever since that time? A I saw him after I moved up there to Cooweescoowee.

Q How did you happen to see him in Fort Gibson in '66?

A He come to Amanda and Ruthe Adairs and was going to take them away and I asked him what he was going to do with them, and he said he was going to take them to his people.

Q You had never seen him before that? A No sir, he was a stranger to me.

By W. W. Hastings:

Q He was a stranger to you in '66? A Yes sir.

Q Had you never seen him before that? A No sir.

Q You didn't witness for him before the Kern Clifton Court did you? A No sir.

Q Do you know how long he staid in Fort Gibson that time?

A No sir I don't.

Q What time did you wee him there? A In the fall.

Q What time in the fall? A First part of September or the last part of August, somewners along there.

By the Commission:

Q How donyou know it was in '66? A Because I was living right there and notices all the girls that come in there.

Q You was a young man then? A Yes sir.

Q You was a Government officer also, wasn't you? A Yes sir.

Sam Webber, called and sworn as a witness by Com'r Needles, testified as follows:

Q What is your name? A Sam Webber.

Q How old are you? A 58.

Q What is your postoffice address? A Nowata.

Q Are you a recognized Cherokee freedman? A Yes sir.

Q Do you know the applicant? A Yes sir.

Q How long have you known him? A Got acquaintedwith him in Kansas.

Q During the war? A Yes sir, time of the war.

Q Do you know when he returned to the Cherokee Nation?
A In the fall of '66 was when I first remember seeing him in the Nation.
Q Where did you ~~first~~ see him? A On Big Creek.
Q He came up there to live? A Yes sir.
Q Did he have his family there with him? A Yes sir he had his family with him.
Q Did you know if he was a slave in the Cherokee Nation before the war? A Only what he told me.
Q Have you known him ever since? A Yes sir.
Q Has he lived in the Cherokee nation continuously ~~star~~ since?
A Yes sir.

By Mr. Hastings:

Q He settled there right in the fall of '66? A Yes sir, frost was falling.
Q How long before had you and your family been there? A Not long, I moved down there a short time before that.
Q About how long before that? A I can't just tell, not a great while.
Q A month? A Must have been a month. I don't remember exactly.
Q Are you prepared to swear positively that all these people came down there 33 years ago, in '66? A Yes sir, all those I am acquainted with that come.
Q How far did this man live from you then? A 4 miles.
Q He has lived there ever since? A Yes sir.
Q You know he was living there in '67? A Yes sir.
Q You know he was living there in '68? A Yes sir.
Q You are willing to swear that he has continued to live there continuously ever since '68? A Yes sir.
Q Did you know his father? A Yes sir.
Q What was his name? A Peter Ward.
Q He come with his father, did he? A Yes sir they came together.
Q And settled in the same neighborhood? A Yes sir.
Q What place in Kansas did you come from? A Linn County, same place they came from.
Q Mound City? A Yes sir.
Q Did you know them there? A Yes sir.
Q Did you go back up there directly after you come down here and settled? A No sir.
Q Did you go back there in '67 or '8? A No sir.
Q Was this man married when he come down there? A Yes sir.
Q Was his wife with him? A Yes sir.
Q How many children did he have then? A I can't tell you how many he had, but he must have had as many as two or three. I can't tell.
Q Did he have any? A If he did, I don't know it.
Q You know he was married though? A Yes sir.
Q Did he live with his father when they first came there?
A They both camped there close together.
Q Did they make separate homes? A Yes sir.
Q Had you made a crop there when he come? A No sir.
Q None of you had crops in there did you? A No sir, couldn't hadn't been there long enough.
Q About how far did they locate from the Kansas line?
A I don't hardly know.

APPLICANT recalled and examined by W. W. Hastings:
Q You saw Will and John Ward directly after Will got into trouble did you? A Yes sir I saw Will; he come to my house.
Q You had a talk with him? A Yes sir.
Q You told him where you had been? A No sir, not exactly as to where I had been.
Q Talked about old slavery times? A Yes sir.
Q Told him when you had come back? A No sir, that question was not asked.

Continuation of the above application reported by B. E. Jones

Charles von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of this stenographic notes therein.

Signed Chas. von Weise
Subscribed and sworn to before me this the 19th of June, 1901,
at Nowata, I. T.

Signed T. B. Needles,
Commissioner.

(Continued from testimony taken by Stenographer Chas. von Weise, June 8, 1901).

George Meigs, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Meigs.
Q What is your age? A I don't know exactly, about sixty some odd.
Q What is your postoffice? A Wimer.
Q Are you a recognized Cherokee freedman? A Yes sir.
Q Your name on the 1880 roll? A No sir.
Q You made application to be enrolled? A Done been enrolled, all excepting two witnesses.
Q Do you know Abram Ward, the applicant here? A Yes sir.
Q How long have you known him? A Ever since he moved on Big Creek.
Q Do you know whether he was a slave before the war? A Yes sir, he was a slave.
Q Who did he belong to? A Belonged to a man they called George Ward.
Q Do you know whether he went out of the Cherokee Nation during the war or not? A Yes sir.
Q Where did he go? A Went up to Fort Scott.
Q Did you see him? A No sir, I just met him up there.
Q Do you know when Abram Ward, the applicant, returned to the Cherokee Nation? A Why I don't know exactly.
Q When was the first time you saw him after the war? A Why it was in the fall of '66.
Q Where did you see him then? A On Big Creek.
Q Was he living there? A Well, he has been there ever since.
Q Was he living there then? A When I saw him, why he just come.
Q Did he have a family with him when he came? A Yes sir.
Q How many children did he have? A Well, I can't hardly tell you.
Q Have his wife? A Yes sir.
Q Was he camping there, or had he built a house? A Well, he

came in and camped and built a house.

Q Have you known him since that time? A Yes sir.

Q Has he always lived in the Cherokee Nation since '66, to your knowledge? A Yes sir.

Q You were taken out during the war were you? A Yes sir.

Q Did you return with Abram Ward? A I returned just a little before he did.

Q You saw him where in the fall of '66 in the fall? A Yes sir

Mr. Hastings:

Q How long had you ben back when you saw Abe?

A I don't know exactly.

Q A year or two? A I hadn't been back a year, no sir.

Q Well, had you put in a crop that year you came back? A No sir, I hadn't then.

Q Did you have any corn in when he came? A No sir.

Q Any potatoes in? A I had a patch started to clear out.

Q But you had no corn on it? A No sir.

Q You didn't plant any that year? A We didn't plant any till it got time to plant it.

Q But had you planted any when this man came down there? A No sir.

Q George, you don't know anything about dates, years? A No sir. I don't.

Q You don't know one year from another? A No sir, I didn't know of course I am got no education.

Q Where did you live before the war? A Well, now I lived in the Cherokee Nation before the war.

Q What place in the Cherokee Nation? A Well, as near as I can tell you to tell the truth, I lived east of a little town they called Dutch Town on a big hill; west of it.

Q Who did you belong to? A Belonged to a man they called Reuben Daniels and Lila Daniels.

Q How far was that from Beattie's Prairie? A It wasn't a great ways, I don't know.

Q What direction was Beattie's Prairie from where you lived?

A To my judgment it must have been kinder north, nearabout north.

Q You were up there before the war, were you, Beattie's Prairie

A No sir, I don't know that I have ever been to he place.

Q When did you first see Abe? A The first time I saw Abe to recollect him was at Fort Scott.

Q During the war? A Yes sir.

Q Then you never saw him before the war? A No sir.

Q You don't know of your own personal knowledge who he belonged to? A Of course I don't, but I know what he says, who he belonged to.

Q You swore awhile ago he belonged to George Ward? A That is what I told you his owner was.

Q You don't know that? A No sir.

Q You are the son of Peter Meigs? A Yes sir.

Q Peter Meigs went down before the Court to have himself and family enrolled? A Yes sir.

Q Did you go along with him? A No sir. He is dead? A Yes sir.

Q He is dead? A Yes sir.

Q He didn't get enrolled? A No sir.

Q He has been refused by the Cherokee Nation? A Yes sir.

Q You know this man the applicant, has been refused all the time? A Yes sir.

Q To the best of your judgment, how many children did he have

when you first saw him there, after the war? A I can't hardly tell you; I know all his children; he had one to my judgment.
Q But you don't know how many more? A No sir.
Q What was this child's name? A Named Lon.
Q He stayed right near you? A Yes sir.
Q He came down with his father, didn't he, Peter Ward?
A Yes sir.
Q They all came down together and stayed up there? A Yes sir.
Q I want to know if you are positive about the year that they come in? A Yes sir.
Q They have lived there continuously ever since that year they came? A Yes sir, ever since.
Q They never went back to Kansas and left up there? I believe the old man went back once or twice for grub.
Q Not up there to live? A No, they never went up there to live.
Q Are you willing to swear positively about the year they came?
A Yes sir.
Q That was in 1866, was it? A Yes sir, '66 we came.
Q Was it 1866? A I can't say whether it was eighteen hundred or not.
Q You are not positive about that. A I can't tell you anything about the dates; and I didn't suppose I would have to know anything about '66 like I do, but my daddy was rushing to get down there to get a place he said for his children.

Commissioner.

Your daddy knew he had to be there in '66 did he?
A Yes sir.

Commissioner: Abram Ward applies for the enrollment of himself and son Artes. He is not identified upon the authenticated roll of 1880 or the census roll of 1896 from an examination of the same, but he is identified upon the Kern-Clifton and the Wallace rolls. His child Artes is also identified upon the Kern-Clifton roll. He avers that he was married to one Caroline Adair, who is now deceased, and makes satisfactory proof as to said marriage. Now Abram Ward and his child Artes will be listed for enrollment as Cherokee Freedmen on a doubtful card, awaiting further consideration by the Commission? He will be duly notified by mail at his postoffice address of the decision of the Commission, when arrived at.

Bruce C. Jones, being duly sworn says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above entitled case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, Bruce C. Jones.
Sworn to and subscribed before me this the 12th day of June, 1901
(Signed, T. B. Needles,
Commissioner.

Bruce C. Jones, being duly sworn, says that as stenograph-

er to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the original.

(Signed) Bruch C. Jones.

Sworn to and subscribed before me this the 6th day of August, 1901.

(Signed) T. B. Needles.
Commissioner.

I, Frances R. Lane, upon oath, state that as stenographer to the Commissioner to the Five Civilized Tribes she made a copy of the testimony taken in the matter of the application of Abram Ward for the enrollment of himself and one child, as Cherokee Freedmen, at Chelsea, Indian Territory, June 8th, 1901, and that the above and foregoing is a true, complete and accurate copy of said testimony.

Frances R. Lane

Subscribed and sworn to before me this February 23, 1907.

Walter W. Chappell

Notary Public.

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COMMISSIONERS

HENRY L. DAWFS.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 21st, 1901.

Received of the Commission to the Five Civilized Tribes,
one copy of the original testimony of June 8th, 1901, in the
matter of the application of Amanda Hill et al for enrollment as
Freedmen of the Cherokee Nation.

Wm W. Little

Attorneys for Applicants.

Cherokee F. #D625.

(C O P Y)

To be filed with the case of Amand Hill, C. F. D. 625

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T. June 29th 1901.

In the matter of the application of Andy Webber for enrollment as a Cherokee Freedman: he being sworn by Commissioner T. B. Needles testified as follows:

- Q What is your name? A. Andy Webber.
Q. What is your age? A. 25.
Q What is your post office address? A Centralia.
Q In what district do you live? A Cooweescoowee.
Q Do you want to be enrolled as a Cherokee freedman? A Yes sir.
Q Who else do you want to have enrolled? A. Just myself.
Q Is your name on the roll of 1880? A. I dont know.
Q What is your father's name? A. Johnson Webber.
Q Is he living? A. No sir.
Q What is your mother's name? A. Francis Sanders.
Q Is she living? A. No sir.
Q Is your name on any of the rolls of the Cherokee Nation? A
Think it is on the Wallace roll.
Q Have you any brothers or sisters? A. Yes sir, one, Manda Webber
Q Has she been enrolled? A. Yes sir under the name of Amanda Hill

Applicant not found on the 1880 or 1896 rolls.

- Q You say Amanda Hill is your ister? A Yes sir.

Kern Clifton roll examined and the name of the applicant found as follows: page 167 #4131, Andy Webber, Cooweescoowee District.

Wallace roll examined and the applicant found as follows- page 152 No. 3159, Andy Webber Cooweescoowee district.

- Q Where were you born? A On big Creek, Cherokee Nation.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Married? A. No sir.
Q Never have been? A Yes sir.
Q Have you any children? A No sir.
Q Are you separated from your wife? A She is dead.
Q Are you a full brother of Amanda Hill? A. Half brother.
Q Same father or same mother? A. Same father.
Q Were your father and mother slaves? A. Yes sir.
Q Who did your father belong to? A. I dont know.
Q What did your mother belong to? A. I dont know.

SAM WEBBER called and sworn as a witness for the applicant-

- Q What is your name? A. Sam Webber.
Q What is your age? A. 58.
Q What is your post office address? A. Nowata.
Q Do you know the applicant? A. Yes sir.
Q How long have you known him? A. Ever since he was born.
Q What was his father's name? A. Johnson Webber.
Q Was he a slave? A. Yes sir.
Q Who did he belong to? A. Ake Webber.
Q A Cherokee citizen? A. Yes sir.
Q Was he taken out of the Cherokee Nation during the war? A. Yes sir.
Q Where to? A. Kansas.
Q When did he return? A. Late in the fall of '66.

Q Did you know his mother? A. Yes sir.
Q Was she a slave? A. I dont know.
Q Do you know when Johnson Martin and Frances Sanders were married?
A After the war.
Q You dont know the citizenship of his wife? A: She returned in '66 with her father.
Q But you dont know if she was a slave or not? A. No sir I dont of my own knowledge.
Q Did they live together as man and wife until one of them died?
A Yes sir.
Q And Andy was their child? A. Yes sir.
(By Hastings)
Q He was married before? A. Yes sir to one of the Wards.
Q Did his first wife die? A. Yes sir.
Q And then he married this Sanders woman? A. Yes sir.
Q A sister of Dan? A. Yes sir.
Q And that is the mother of this applicant? A. Yes sir.

DAN SANDERS called and sworn as a witness for the applicant-

Q What is your name? A. Dan Sanders.
Q What is your age? A. 58.
Q What is your post office address? A Centralia.
Q Are you a recognized Cherokee freedman? A. Yes sir.
Q Do you know the applicant? A. Yes sir
Q How long have you known him? A. All his life.
Q Did you know his father? A. Yes sir his name was Johnson Webber.
Q Was he a slave? A. Yes sir.
Q Who did he belong to? A. Ake Webber
Q Was Johnson Webber taken out of the Cherokee Nation during the war? A Yes sir to Kansas.
Q When did he return? A In '66.
Q How do you know that? A They were in our crowd.
Q Do you know the mother of Andy Webber? A Yes sir she was my sister Frances.
Q Was she a slave? A. Yes sir.
Q Who did she belong to? A. Levi Keys.
Q Was he a Cherokee citizen? A. Yes sir.
Q Was she taken out of the Cherokee Nation during the war? A. Yes sir
Q When did she return? A. With me in '66
Q Did she live in the Cherokee Nation from that time until her death? A Yes sir.
Q Do you know that she and Johnson Webber were married? A Yes sir, they lived right there by me, 3 or 4 miles from me.
Q Did you see them married? A. No sir.
Q While they were living together as man and wife was Andy born?
A. Yes sir.
Q And has he lived in the Cherokee Nation all his life? A. Yes sir.

By Hastings--

Q What time in the year did you first come back here? A. Come in January the last of January or the first of February.
Q You men folks had come twice? A. Yes sir.
Q You built houses the first time? A. Yes sir.
Q And then went after your families? A. Yes sir.
Q What January was that you came with your families? A. '67.
Q Did you come to Big Creek? A. Yes sir.
Q You were about the first people to locate on Big creek? A. Yes sir

Q Who was with you? A I dont know just how many families, some of them came part of the way and stopped onthe Neosho.
Q Name all that you can? A. Peter Meigs, the Webbers, Andy Sanders, Fannie Scales, Henry Scales; I disremember who else.
Q You reached there in January or February with your family? A Yes sir.
Q And have been there ever since? A. Yes sir.

By Com't Needles,- Andy Webber applies for himself; he is only identified on the Kern Clifton and Wallace rolls; he is the child of Johnson Webber and Frances Sanders, and makes satisfactory proof that both his parents were slaves and taken out of the Cherokee Nation and returned in '66; makes satisfactory proof as to residence. The Commission is satisfied that the said Andy Webber is entitled to be listed for enrollment as a Cherokee Freedman and he will therefore be listed on a straight card.

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Chas. Von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

(Signed) Chas Von Weise.

Subscribed and sworn to before me this 31st of July, 1901.

SEAL

(Signed) M. D. Green.

The undersigned, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized, she made the above and foregoing copy, and that the same is a full, true and correct copy of the original testimony now on file in this office.

Subscribed and sworn to before me this February 22, 1907.

W. H. Pace
W. H. Pace
Notary Public.

File with Cherokee Freedman D-625, Amanda Hill

Department of the Interior,
commissioner to the Five Civilized tribes,
Vinita, I.T. October 5, 1901.

In the matter of the application of Abraham Ward et al, for
enrollment as Cherokee freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:

Mellette & Smith, attorneys for the applicants;
W. W. Hastings, of counsel for Cherokee Nation.

C. W. KINGSBURY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A C. W. Kingsbury.

Q What is your age, Mr. Kingsbury. A I am 47 years this fall.

Q What is your postoffice address? A Mount city, Lynn County, Kansas

Q How long have you lived in and about Mound City? A Ever since the 12th day of August 1861.

Q Were you living there in 1865; You have lived there ever since you say? A Yes, sir lived there continuously ever since, made that my home.

Q What was your father's name? A My grandfather's name was Durbin.

Q Did you know a colored man in Mound City, Kansas, by the name of Peter Ward? A There was one lived there, yes, sir by the name.

Q Did you know of his children? A Yes sir.

Q Name some of them? A There was Abraham, Berry, Mark, Miner, Squire, Eliza, Ben, Dave, Clint, George; that is all I can remember of them.

Q When did you first become acquainted with this family of Wards? A In the fall of '65.

Q Where were they then? A They lived on a place west of ours.

Q How far was that from Mound City, Kansas? A That was three miles: it is three miles to my place and their place joined right west of ours.

Q Joined your place on the west? A Yes sir, their place cornered with ours on the northwest.

Q How long did they continue to live from '65 in that immediate vicinity about Mound City? A From '65 in the fall of '65 I think, and then in the next spring they moved, taken a lease on the old gentleman's place, my grandfather's.

Q What was his name? A Amos Durbin?

Q That was in the spring of '66? A In the spring of '66 they moved onto our place.

Q When you say our place you mean your grandfather's?, A Yes I mean the Durbin farm now, it is where I live now.

Q Now how long did they continue to live on that farm? A They took a lease on our place for four years, to clear up some timber lands, and they lived there three years and in the fall of '69 the old gentleman left, that is he said he was going down in this country, that was in the fall of '69, and the remaining year of the lease, he wanted the old gentleman, that is Mr. Durbin, to let one of his boys live there the year of the lease out, and Mr Durbin said him that he was welcome to stay on the place til his time was out, but he didn't want him to sub-rent to anybody, and Peter Ward said all right.

Q They gave up the last year? A Yes sir, they gave up the last year.

Q And they lived there for three years from '66 as I understand it? A From '66 to the fall of '69.

Q Was there a barn built on the Durbin farm in the meantime? A There was a stone barn built in '68.

Q How do you know it was built there in '68; have you anything else besides your own memory? A Yes sir, the boss mechanic, A.J. Ranney, on finishing the work he placed a rock up over the door with his initials and the year it was erected in.

Q Do you know whether there people were there after the building of this year or not living there? A Yes sir.

Mr. Mellett; I think that is a very leading remark.

Q Well now how do you know it? A Mr Ward was farming our place besides this land, he stored some wheat on our place and he stored some wheat and in the fall of '69 he left some wheat in our barn and ~~the next~~ spring he came and got it.

Q You know where he was the next spring, where he was living? A He said he had moved down in this country, that is what he said and we supposed he had.

Q Have you seen him since? A I have not; one of his boys was back there since, Abe, but what year I don't remember.

Q What is your occupation? A I am farming and stock raising.

Q You have mentioned a number of Peter Ward's family; did they all leave when Ward left, or about that time? A About that time, I can't say for sure whether the older boys left a short time before or a short time after, but I remember Uncle Peter going away at this time that I spoke of.

Q You remember Abraham Ward living there? A Yes sir, he lived there every time when he was there, the boys were all at home on the place there.

Q Is your grandfather, Durbin I believe, is he alive? A Yes sir, he is living, he is quite an old man, he is 88 years old.

Mr. Mellette:: I didn't get your name? A C.W. Kingsbury.

Q What is your postoffice? A Mound City, Kansas.

Q How old are you? A I am 47 this fall.

Q How old were you in '66? A In '66 I was 12 years old, I was born in '54.

Q Did you, as a 12 year old boy, pay much attention, to dates?

A What do you mean, in what way do you mean?

Q Well I mean exactly what I said? A Well this time that I spoke of, of knowing when Uncle Peter took this lease on our place; this place that he moved onto our place from belonged, when he took the lease on that, to a man Corbin, and he built a house.

Q Now are you going to answer my question? A Yes sir, what is it? Mr. Hastings: If you want to tell him how you get at this date, go on and tell him.

Mr. Mellette: I asked you if, as a 12 year old boy, you paid very much attention to dates? A I remember this distinctly.

Q When were you first asked to appear as a witness in this case? A I think there was a gentleman at my house twice, the last time I, don't remember when, but I think it was along the last days of last month.

Q How long was it after Peter Ward and his family left Kansas, that that man came to you and asked you about these facts? A It was from '69 until 1901.

Q How long is that? A From '69 would be 32 years, if I am not mistaken.

Q Do you remember back then 32 years to the time when you were a 12 year old boy and remember the years that these colored people leased the land? A I do.

Q And when they moved off? A Yes sir.

Q Where were you living at that time? A I must have lived on the place, I was living at that same place I lived now, three miles west of Mound City, in Lynn County Kansas.

Q Is that the only date you can remember about things that took place in those days? A No, sir.

Q You have lived in one spot all the time? A I have lived continuously, that has been my home on that farm since '61.

Q What impresses the fact on your mind as to when them people lived on that land? A As I said Mr. Ward was living on a farm that

belonged to Corbin and he had put up a house there, a log house, he wanted to move that house over onto the old gentleman, my grandfather, and my grandfather objected and told him he had better go down in our timber and cut logs and built a house.

Q You know of that? A Yes sir.

Q You remember that conversation 32 years ago? A Yes sir.

Q You are giving the exact conversation that you heard 32 years ago?

A I remember that contract and the conversation.

Q Were you a business man at that time? A Well I wasn't, I don't suppose, considered so legally.

Q Did you conduct business at the age of 12? A In the way of leasing land I ~~didn't~~ and Mr. Alexander came out from Indiana in the fall of '65 and bought the land then, this land that his Gentleman, Mr. Ward lived on, and then in '66 P.D. Alexander moved on the farm and lived there until the time of his death.

Q Now is it not a fact that Peter Ward and his family left you grandfather's place in '66 because they understood they could get a home here by coming in 1866, that they departed at that time? A I don't think it is.

Q Well, what do you mean by saying you don't think it is? A Well I mean that he lived three years of this lease out there on the farm, that is, living three years on the farm.

Q Was there any particular reason for your remembering that for 32 years, that time that these people were on your grandfather's

farm? A The thing that calls the memory is the time was the fact that Alexander bought the place.

Q And you remember the year he bought the place? A Yes sir.

Q Do you remember this by talking to your grandfather or somebody else or have you retained it in your own memory? A I have retained it in my mind, by talking to Alexander during his life time.

Q You have retained it by talking to Alexander? A Yes sir.

Q You are testifying by what Alexander told you? A I know he came there in '66.

Q I want to know if you are testifying about these dates by what Alexander told you? A I am not.

Q What made you say you remember it by talking to Alexander in his life time? A I remember him moving there in '66 same as I remember I moved to Kansas in '61.

Q Then if Peter Ward and Abraham Ward and the rest of the Wards swear they left Kansas in '66 they are mistaken, are they? A I don't know what they testified to.

Q Who else lived on your grandfather's place after the Wards moved off? A At the time they lived on the place there, at one time not all the time, there was a man by the name of Anderson Turk.

Q When did he move on the place? A He moved on the place sometime in '65, he had been on the place I think a year.

Q When did he move off? A He moved off the place, let's see, about '75.

Q Well, are you swearing he moved off in '75? A He moved up north and bought a place, he lived on the place 12 years and moved there in '65.

Q What year did he move off? A About the year 1878.

Q You swear that, do you? A Yes sir.

Q Who lived on the place besides that man? A Why George Brown lived there.

Q When did he move on the place? A He didn't rent he just simply rented a room from Anderson Turk and lived there.

Q When did he rent the room? A Why it was sometime, it was in '67 or '8, I am not sure which.

Q Well, which is it, '67 or '8, just as much reason for you to remember that there was about Peter Ward?

Mr. Hastings: Don't argue that question.

Q What year was it that That man lived on the place? A 67 or '8 I am not sure which.

Q Why can't you remember, if you can't remember when Peter Ward moved

on the place and when he moved off? A Brown lived there just a short time and by permission of Anderson Turk.

Q When did he live there? A I think one winter.

Q You don't know when he went on and when he went off? A In the fall season he went in and just wintered there one winter.

Q Who lived on this place in 1876? A There was no one in '76, nobody then but our own folks

Q Who cultivated it? A The old gentleman.

Q Anybody else ever live on that place? A How do you mean, since '66? A Yes sir, since '66? A Yes, I think Uncle Ben Ward lived on the place.

Q When did Ben Ward live on the place? A He lived on the place I think it was, let's see, about '67.

Q Now was it about '67, or was it '67? A I am not sure whether it was '67.

Q Why can't you remember when Ben Ward lived on the place? A I am pretty sure it was '67 when he lived on the place.

Q Do you swear positively it was '67 when he lived on the place?

A I am pretty sure of it, I am not positive.

Q Might have been '66? A No, it wasn't '66 because my recollection is that he moved on the place after Uncle Peter did, took another lease.

Q It was '67 then? A Yes, sir.

Q Might have been '68? A Yes, it was either '67 or '68, was either of the two years, it was a year after Uncle Peter moved.

Q You want to be understood as swearing positively that Uncle Peter Ward moved on the place in '66? A Yes sir, spring of '66.

Q And you were a 12 year old boy at the time? A Yes sir.

Q Don't you think you have a remarkable memory? A I never considered my memory as anything extra.

Commissioner, Mr. Kingsbury, Mr. Hastings asked your your father's name as you gave your grandfather's name, why did you not give your father's name when he asked you? A My father was in California and my Grandfather raised me, I have been living with him ever since I was 7 years old, ever since; my father is dead now.

Mr. Hastings; I had talked to you about your grandfather's place?

A Yes, sir, that is the place that I live on now, and this family lived on is my grandfather's now, he is still living, he is quite an old man.

BYRON OSBORN, being duly sworn by Commissioner Needles, testifies as follows:

Mr. Hastings: What is your name? A Bryon Osborn.

Q MR. Os born, how old are you? A 49 years old.

Q What is your postoffice? A Mound City, Lynn County Kansas.

Q How long have you lived in and about Mound City, Kansas? A Well sir, my father settled there in '54 March 20.

Q Have you lived there since that time? A Well, that has been my home, I have been away a year or so at a time, was back in Illinois a couple of years and I was out in Colorado about the mountains about 12 to 14 months.

Q Well, where were you the three or four years after the war? A I was on our place, home.

Q How far was your place from Mound City, Kansas? A Three miles.

Q What direction? A Southwest.

Q How far was that from the Durbin farm? A Well, it is about two miles and a half I should judge.

Q Do you know Mr. Kingsbury, who has just left the stand?

A Yes, sir.

Q He a grandson of Durbin? A Yes, sir.

Q Did you know a colored man by the name of Peter Ward? A Yes, sir, I use to know Mr. Ward.

Q Did you know any of the members of his family? A Yes, sir.

Q Give me the names of some of them? A I know of Abe and I know Berry and I know Squire Ward, that is about all that I know he had

other children but I wasn't acquainted with them, I think he had some girls I wasn't acquainted with.

Q When did you know them? A Well, sir, it was along I think the latter part of summer, they lived in there.

Q About how long did you continue to know them? A Well the best of my recollection is that I know them I think probably eight or nine or ten years.

Q I mean did you know them after the war? A Yes, sir.

Q How long after the war did you know them? A Well, I should judge it was, to the best of my recollection, I think it was probably five or six years after the war, four or five maybe, sometime after the war, but I can't state how long.

Q Do you know where they were living? A Yes sir.

Q What place? A They were living on Mr. Durbin's farm.

Q Do you remember where they went when they left there? A Well I don't know positive, only I have understood they came to the Indian Territory.

Mr. Mellette: How old are you? A 49 years old.

Q How old were you when the war closed? A Well I guess I was about 12 or 14 years old.

Q Now who did you first talk to about knowing about these people? A Mr. Keys.

Q Mr. Keys came up into Kansas, didn't he? A Yes, sir.

Q Found you? A Yes, sir, he asked me did I know the Wards and I told him I did.

Q Well was that the first time that any body had ever talked to you about when the Wards left that country? A Yes, sir.

Q That has been about 32 years ago, hasn't it? A Well it has been a long while, I don't know just how long.

Q You were a boy about fourteen years old? A Yes.

Q Do you think you can remember back to your boyhood days and swear positively when Peter Ward left that country? A I don't swear positively.

Q How far do you swear positively? A Well I know that he was there sometime after the war.

Q You know he was there sometime after the war? A Yes/

Q Can you remember the events and the succession of facts as they happened thirty years ago when you were a boy? A Well some things I can.

Q Well, do you think this is one of the things? A Well I remember that Mr. Ward lived there, he had a boy by the name of Abe who used to work for my father sometime after the war, he worked on our place, but I can't say positively what year it was.

Q You don't know when he worked on your father's place? A I don't know what year it was, it was sometime after the war, quite a while.

Q And you don't know when he moved to Mr. Durbin's place? A No, sir.

A Can't you remember the year he worked on your father's place?

A No, sir, not positive.

Q When did they stop fighting up there in Kansas? A Along about, I think the last fight they had was when Price went through? I think the latter part of '66 or '65 along there.

Q '66 was it? A Or '65.

Q You say they had a fight up there the latter part of '65, that Price went through there? A No, I didn't say '65.

Q The latter part of '65 or '66? A The latter part of '66 or '65.

Q The latter part of '65 or '66, you say that? A I saw either the latter part of '65 or '66 sometime along in there, that Price went through there.

Q Don't you know that Price made his raid through there in '63?

A No,, I don't hardly beleive he did?

Q And, don't you know that General surrendered to General Grant in April 1865, and that there wasn't any fighting any place after April? A Well it might be, but the war was closed ~~entirely~~ until about '65.

- Q Yes but you say Price made his raid through there in '65 or '66?
A I meant '64 or '65.
Q What made you change? A Well I just made a mistake.
Q Who talked to you after you came? A Nobody.
Q Well Mr. Hastings here consulted you, didn't he? A He asked me some questions.
Q Was Mr. Kingsbury present? A Yes sir.
Q Who else was present? A There was lots of gentlemen there.
Q All you witnesses who came down in that case were present and talked to together? A Well they asked me some questions.
Q Now when you were being consulted you and Mr. Kingsbury and the other witnesses in this case were all sitting in the room and heard what went on here? A I think maybe I did hear a part of Mr. Kingsbury testimony, I wasn't in there all the time, I don't know anything about when Mr. Ward left that country, I can't swear positive, but I am satisfied that he was there several years after the war closed.
Q But then if you think that Price made his raid through there in '65 or '66 you may be mistaken when the war closed? A I meant '64 or '65.
Q Do you say that Price did make his raid through there in '64 or '65? A I wouldn't say positive.
Q You wouldn't say positively about that? A No, it seems to me it was in that time.
Q You were a boy? A Yes, I was a boy.
Q Mr. Hastings, You were summoned here as a witnesses on the part of the Cherokee Nation, weren't you? A Yes sir.
Q I consulted you with a number of other witnesses down there?
A Yes sir.
Q Mr. Mellette; How were you summoned here on the part of the Cherokee Nation? A By subpoena.
Q Who served the subpoena on you? A Mr. Campbell left it at my farm.
Q Who is Mr. Campbell? A His name is Neve Campbell.
Q Where does he live? A He lived in Mound City, Kansas.

JOSEPH L. WARD, being duly sworn by Commissioner Needles testified as follows:

- Q Mr. Hastings; What is your name? A Joseph L. Ward.
Q What is your age, Mr. Ward? A 56.
Q What is your postoffice? A Maysville, Arkansas.
Q You live in the Cherokee Nation side there? A Yes sir.
Q You are a Cherokee citizen by blood? A Yes sir.
Q Mr. Ward, what was your father's name? A James Ward.
Q Did your father ever own a colored man by the name of Peter Ward?
A No, sir my grandfather owned him.
Q You know Peter Ward then? A Yes sir.
Q Before the war? A Yes sir, he married a negro woman my mother owned.
Q He had some children? A Yes sir.
Q You remember any of their names? A Yes, sir.
Q Well, give us some of them? A Abraham was the oldest, Berry Margaret, Miner, Squire, Eliza, Dave and Clint, is all they had when they left there that I know of, that I remember.
Q Did they live there when the war came up? A Yes, sir, in '63 as well as I can remember.
Q Did you ever afterwards see them? A Yes sir.
Q Where did you next see them, A In Mound City, Kansas.
Q When was that? A In the fall of '65, October.
Q Now when did you next see anyone of this family? A The next time one of them was here in Vinita just after that payment the first payment of the Cherokees. I don't remember the exact date.

Q You don't remember the exact date? A No, sir.
Q It wasn't this last colored payment? A No, it was the first payment that was had after the war.
Q You don't remember the date of that payment? A No, I don't remember the date.
Q Was this railroad through here at the time? A I think so.
Q Well, which one of them did you see at that time? A Abraham.
Q Did you have any conversation with him? A Why yes, he told me that he didn't get any money, that he came too late.
Q He say where he was living at that time? A Living out here on Big Creek, up here in Cooweescoowee.
Q You remember when he said he came? A No, I don't positive, it seems to me he told me he came here in '69., that is my best recollection.
Q Did you see any other members of the family at the time? A No, sir, not that I remember.
Q Have you talked with any of them since that about it? A No sir.
Q You live quite a distance from them? A Yes, sir, I live about fifty miles southeast of here, and they live northwest.
Q You don't remember the date of that payment? A No, I don't remember the date of it, somewhere in '70 but I don't know exactly what date it was.
Mr. Mellette; Well, did any of the colored people get the payment at that time? A I don't know, I don't think they did.
Q Don't think any of them get it? A I don't know, I don't remember of course I can't state.
Q You wouldn't swear that he told you he came here in '69, positively? A Not positively, but that is my best recollection.
Q Well, that has been a long time ago, hasn't it? A Yes, sir.
Q You ever been arrested? A I don't know that cuts any figure in the case.
Commissioner: Please answer the question.
A Why yes.
Mr. Mellette: What were you charged with? A I was charged with charging an unlawful fee in a pension case.
Q That all? A And detaining pension money.
Mr. Hastings: What was done with the case, Mr. Ward? A Dismissed

JOHN L. WARD, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A John L. Ward.
Q What is your age, Mr. Ward? A Age is 50.
Q What is your postoffice? A Maysville, Arkansas.
Q You are a Cherokee citizen by blood? A Yes sir.
Q You live on the Cherokee side of the line? A Yes, sir.
Q What was your father's name? A His name was James Ward.
Q Did you know a colored man by the name of Peter Ward? A I did when I was a boy, I haven't seen him since.
Q Did he have some children? A Yes sir.
Q You remember any of their names? A Yes, I recollect most of their names, there was Margaret and Abraham, Louise, was the old lady's name.
Q We want to identify the family, name some of them? A Margaret and Abraham and Berry and Miner and Ben I think and Dave and Eliza and Clint.
Q Did you ever see any of them after the war? A I never saw but one of them; yes I have seen them too, I seen Squire here the last Court, one they call Dick or Squire.
Q Well which one did you see first after the war? A That was Miner.
Q What was her name then? A Rowe I think she called her name.
Q Where did you see her? A Up here between here and Chetopa, big Creek I think it was.

- Q Between here and Chetopa? A Yes sir.
- Q In what district? A In Cooweescoowee I guess.
- Q Did you have any talk with her? A Yes, sir.
- Q About when was that talk? A Sometime in the sixties, '65 or '6 or '7, somewhere along there, I don't recollect just the year.
- Q Now think over the date, do you mean '60? A '70 I mean '70, something in '70, I have got it wrong, '60 I said, it was sometime in '70.
- Q You say it was some time in '70? A Yes sir.
- Q You know whether it was before or after this railroad ran through here? A Yes sir, it was after this railroad ran through here.
- Q This M.K. & T.? A Yes sir.
- Q Well what conversation did you have with her? A We stopped there where she lived and she called up a couple of boys that she had and she told me their names, she called one of them Grant and the other one Sherman, and then she sent a crazy negro down in the field for her husband, and she said she wanted to know what they were going to do about them, she said they got back too late: I said I didn't know what they were going to do, and that is about all the conversation I had: I asked them about the family, where they lived; they were all around there except one of them, there was one had never come back, that is my recollection, I don't know which one now.
- Q Who was with you at the time? A Will, my brother, we had been up to Coffeyville with some apples and came back by there and stopped.
- Mr. Mellette: You say you asked them about the family? A Yes, sir.
- Q Talked a good while with them I suppose? A We stopped there about half an hour or an hour.
- Q Where did she say her father was? A He lived there somewhere.
- Q Where? A Up here about Big Creek.
- Q Where did she say Abraham was? A He was there.
- Q Where? A Up in there, right close there, I was asking how they all were getting along.
- Q How many years ago has that been? A Along in '70 sometime.
- Q '70 when? A Between '75 and '77.
- Q What made you say it was in '60 first? A I just miscalculated it.
- Q Wasn't it in the sixties? A No, sir.
- Q Don't you know it was in '66? A No, sir.
- Q Between '76 and '7 and '8? A It wasn't in '66.
- Q Why wasn't it? A Because this railroad was built through here.
- Q When were you first called upon to remember this? A Well, it was down here in this rock house down here.
- Q How long ago? A I don't remember.
- Q When Mr. Wallace made this roll? A No, sir.
- Q When Mr. Kern and Clifton made the roll? A It was when this negro attorney was down there, I don't know his name.
- Q How long ago? A I don't remember just now.
- Q About how long ago did you first remember that she said she was to late? A It was when we were up there, is all I know about it.
- Q About how long ago, I want to find out when it was? A The reason I think it was ~~married~~ about seventy, because I was married in '78 and it was before I was married.
- Q How many years before you were married? A Two or three.
- Q Two or three? A I don't remember just exactly, it was so long ago you can't recollect, I can't recollect the exact dates.
- Q That is what I am thinking about, unless I have something to impress it on my mind; nobody called on you to remember what they said for twenty or thirty years afterwards? A No, I wasn't called on until I was summoned here before this court.
- Q This time? A No, that other time.
- Q What time was that? A I don't remember, you may recollect the date Mr. Hastings.
- Q Who were making the roll at that time? A Hastings and Thompson and there was a negro there, and attorney, I forgot his name.
- Q You can't give any idea when that date was can you; why can't you remember the date you were first called on to testify to this fact

as well as you can remember when she told you she came here too late?

A I never paid much attention to it.

Q Did you pay much attention to when she said she came here too late? A Yes, I recollect by the trip we made and I got to counting it up.

Q After thirty years you got to counting it up, did you? A It wasn't thirty years?

Q Well, twenty? A Let's see, it was over thirty years I guess.

Q Well how many years has that been? A Well I can count, this is 1901, you can count yourself.

Q Why I am not going to do it, I asked you how many years it was?

A Thirty years from seventy and then it was along in '70, well I don't recollect just exactly the year though it was before '77, some time between '70 and '77, I don't remember just exactly the year, I don't propose to swear something I don't know.

Q Well, you give it up then, you can't tell how many years it has been? A I don't recollect the exact year.

Q And you can't tell the year you were down here in the rock building and when Mr. Hastings and Mr Thompson were making the roll? A no I don't recollect the exact year.

Q Was it 1895? A I don't remember.

Q 1890? A (No response)

Q Was it 1890? A No, sir it wasn't then.

Q When was it? A I don't know just when, I don't recollect the year.

Mr. Hastings: That was the first you had seen the old slaves since the war, when you had this conversation? A Yes, sir, and then during this court I was sworn when I was up here last Court.

Q Are you summoned here as a witness this time? A Yes, sir.

Q Were you summoned when you testified before when I represented the nation in part? A Yes, sir.

Q You remember Mr. Thompson was a member of the Court at that time? A Yes, sir.

Q You remember the other two members of that Court? A I don't recollect them.

Taking of testimony continued by stenographer J. O. Rosson.

Bruce C. Jones, being duly sworn says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes hereof.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this the 16th of October 1901.

T. B. Needles.

Commissioner.

The under signed as stenographer to the Commissioner to the Five civilized tribes states that the above and foregoing is a correct copy of the original on file in this office.

Sadie Summers

Subscribed and sworn to before me this 25th day of February 1907.

Francis Shaw
Notary Public

Continuation of taking of testimony in case of ABRAHAM
WARD, C.F.-D. #607.

Former portion taken by Stenographer
Bruce C. Jones.

APPEARANCES:

Mr. Mellette, of Counsel for applicant;
Mr. W. W. Hastings, of Counsel for Cherokee Nation.

L. B. Bell, being duly sworn by Commissioner Needles,
testified as follows on behalf of Cherokee Nation:

MR HASTINGS: What is your name? A L. B. Bell.

Q Age? A 62; Vinita.

Q Mr. Bell, when was this railroad, M.K. & T railroad, built
through this country? A '71.

Q When was that first Cherokee payment made after the war? A '75.

Q Do you know whether colored people and all participated in that
payment or not? A Yes, every Cherokee citizen and whole lot that
wasn't.

Q That was a general payment? A Yes, that was general payment
intended for relief fund for all people living in the Cherokee Nation

MR. MELLETTE: : Did any colored peopled get pay at that ~~time~~
time? A Yes, I know two that did, they were living with me.

ABRAHAM WARD, the applicant, called testified as follows
in his own behalf:

MR. MELLETTE: What is your name? A Abraham Ward is my name.

Q Are you the Abraham Ward who ~~is~~ an applicant for enrollement as a
Cherokee Freedman? A Yes sir.

Q Did you know J. L. Ward who has just testified in this case?
A Yes sir, I know him.

Q Did you ever make a statement as testified to by him that you
came here too late to become a citizen? A No, sir, I did not.

Q Did you make statement, as testified to by him, that you came
back in '69? A No, sir.

Q Did you hear that testimony of John Ward, that last witness?
A No, sir.

Q Did you hear his testimony? A I heard it yes, sir.

Q Did you hear a statement being said of yourself, mother or sister
to him? A Yes sir.

Q Where is that sister? A She is dead.

Q How long has she been dead? A About 17 years.

MR HASTINGS: When was the first time you ever saw Joe Ward
after the war? A I saw him when the Cherokee drawed that general
payment, what called bred money.

Q What year was that? A I don't remember just what year it was.

Q Well that is strange? A It was in '70 though I think.

~~Q Did you ever see him? A Yes, sir.~~

Q Where did you see him? A '78 or '9; saw him right here at Vinita

Q '78 or '9? A Yes sir.

Q Along there; saw him here at Vinita? A Yes, sir

Q You didn't talk with him? A Yes, we was talking about our
boyhood times.

Q Talked to him where you had been? A No, sir he knew where I
had been.

Q He was your young master? A Yes, sir, me and him was about one
age.

This Testimony will be made part of the record in cases
D.#608, D.#610, D.#611, D.#613, D.#425, D.#615, D.#616, D.#618,
D.#619, D.#621, D.#622, D.#623, D.#625, D.#626, D.#605.

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J.O. Rossen, being first duly sworn, states that as stengrapher
to the Commission to the Five Civilized Tribes he correctly recorded
the testimony and proceedings in this case, and that he foregoing
is a true and complete transcript of his stenographic notes thereof.

(Signed) J.O. Rosson.

Subscribed and sworn to before me this October 14th, 1907

(Signed) T. B. Needles.

Commissioner.

The under signed as stenographer to the Commissioner to the Five Civilized Tribes states that the above and foregoing is a correct copy of the original on file in this office.

Ladie Summers

Subscribed ~~and~~ sworn to before me this the 25th, day of February, 1907.

Francis Kane

Notary. *Ladie*

1
NED 625

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 1901

Given under my hand this
day of A. D. 1901.

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant hereby accept
service of the within notice on this the

..... day of SEP 18, 1901.

William H. Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } s. s.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me

this day of A.D. 1901.

.....
Notary Public.

COMMISSION EXPIRES SEP 15 1905

FILED

SEP 20 1901

W. H. Smith
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Aminda Hill
for enrollment as a Cherokee citizen:

Case No. D 623

To Aminda Hill or Heretic or either her Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Pinola, Indian Territory, Indian Territory, on SEP 17 1901 at 8 o'clock A.M. from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 17 1901

Attorneys for the Cherokee Nation.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Vinita, Indian Territory, Oct. 8, 1901.

In the matter of the application of Abraham Ward, et al., for enrollment as Cherokee Freedmen.

Additional testimony on behalf of the Cherokee Nation.

Appearances:

Mellette & Smith, attorneys for applicants;
W.W. Hastings, of counsel for Cherokee Nation.

JOHN B. BROWN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings:

- Q What is your name?
A John Brown.
Q J.B. Brown?
A Yes sir.
Q What is your postoffice?
A Springer.
Q That in the Territory?
A Yes, it is in the Territory.
Q Are you a Cherokee Indian, by blood?
A Yes sir.
Q What is your age?
A I am 52.
Q You married a Choctaw or Chickasaw?
A Married a Chickasaw.
Q How long have you been down there?
A I moved down there about two years ago.
Q When did you come back to the Cherokee Nation after the War?
A We landed back in the Cherokee Nation in the fall of '65.
Q Where did you live during the year of '66?
A We were down there on grand river.
Q Where did your father live in '67?
A He was on Pryor Creek; I think he lived on Pryor Creek.
Q Do you know a colored man by the name of Peter Ward and Abraham Ward?
A Yes sir.
Q When did you first see them after the War?
A To the best of my recollection, I saw them in '68 in Kansas, near Mound City.
Q What were you doing up in Kansas?
A There was an old negro that my father owned, lived with him, I met him down here and he had a pension coming to him and I went with him up there to draw this money and I found these people there in Ottawa, Kansas; we went to Ottawa, Kansas to draw this money, and there is where I saw these people.
Q Who did you go with?
A Jess Brown and Jess Marcum, and there I saw old Uncle Peter Ward, and Abe and Berry; there was younger ones, but they were smaller: I got acquainted with them three.
Q Were they living there at the time?
A Yes sir, they were living there.
Q Living in town or on a farm?
A No, they were living out on a farm; out a little piece from Mound City; Mound City, as well as I recollect, must be about 40 or 50 miles of Ottawa, Kansas.

- Q About what time in the year did you see them there?
A It was in July or August; I remember they were cutting wheat when I was there.
Q Summer time?
A Yes sir.
Q Well, about how long did you stay around there?
A I don't know how long; I don't remember how long; we stayed awhile at Mound City, and then went up to Ottawa and stayed there quite a while: we didn't get the money when we first went there; we had to wait on account of some papers wasn't fixed up right, and we had to stay there: I would not say positively how long it was.
Q Was you at Peter Ward's house?
A I can't say positively; you see there was a whole bunch of them lived around there, and I went to several of the houses around there; and when they had preaching there while I was there and I went to church and seen them; they all found that I was an Indian and they came in to see me and talk with me.
Q You were with these colored men; two colored men?
A Yes sir, I was with Jess; his mother was living there and his brother was there.
Q His mother and brother?
A Yes sir, mother and brother.
Q Did you see Abraham Ward?
A Yes sir; wes sir.
Q You remember distinctly seeing him?
A Yes sir, I remember him very well.
Q Well now, did you meet anybody after you came back home; after you came back to the Cherokee Nation?
A What do you mean; when I came back, who did I meet?
Q Yes, if anyone.
A No, I left them over there; they never came back.
Q Did you meet any of the Couches?
A Yes sir, Samm Couch and Pete Couch had just moved from Texas, and I moved to Pryor Creek; they just had moved in and I just had come back from this trip and met them on Pryor Creek.
Q How many Wards had you seen up there; You saw Peter and Abe and Berry?
A I remember Peter; that is Abraham's father; Uncle Peter, we called him; and Berry and Squire; No, Abraham--them three I remember.
Q There were others, but you don't remember?
A Yes sir, there were other boys; I got acquainted with them after they moved back later on, but I don't remember seeing them up there like I do these other men; I knew them after I met them: after they came back I knew who they were.
Q Did they say anything about having been back down here after the War before that?
A No sir, never said anything about that, they told me they were coming back just as soon as they could come; everyone I seen was talking about coming back.
Q Where did you live in '66?
A We were down on the Adair place; some called the Adair place and used to be known as the Alex McDaniel place.
Q Where were you in '67?
A We were there in '67.
Q Where were you in '68?
A Then we went on Verdigris; we had moved over there to Verdigris.
Q And that was in '68 you went up there?
A Yes, in '68 I went to Kansas.

By Mr. Mellette:

Q You say you saw these Wards up there in Kansas at church?
A Yes sir.

- Q How long did you stay in Kansas that fall?
A I can't tell you how long I was there.
Q You didn't lose your citizenship by going up there to Kansas?
A Didn't lose my citizenship, no sir.
Q How long did you stay there, you say?
A I don't remember; might have been two, three or four weeks.
Q You didn't go to their house?
A Yes sir, I went to old Uncle Peter Ward's house?
Q Why didn't you say just awhile ago that you did go to their house?
A I said I went to several homes there; they lived all around in that country at different places, and I had been meeting them one day and another while I stayed there.
Q What were you doing while you were up there?
A I went up there with this old Jess Brown to get his money.
Q Where did you have to go to get his money?
A Went to Ottawa, Kansas.
Q How far is that from here?
A I don't remember how far it is.
Q About how far?
A Oh, it is a long ways.
Q How far did they live from Ottawa?
A As well as I remember, it must be forty or fifty miles; they were living at Mound City to the west of my recollection.
Q What were you doing at Mound City?
A There is where Jess' brother and mother lived; we landed there first.
Q What did you stay there for?
A He wanted to see his mother; I stayed with him.
Q Did you stay with him?
A Of course I had to stay with him; I went with him; whenever he got ready to go on up to Ottawa we went on.
Q You saw three Wards up there?
A Yes sir, I remember the three.
Q You don't know how long they had been up there?
A No sir.

By Mr. Hastings:

- Q You hauled Jess Borwn up in your wagon?
A Yes sir.

Commissioner: This testimony will be made part of the record in Freedman cases D-608, D-610, D-611, D-613, D-425, D-615, D-616, D-618, D-619, D-621, D-622, D-623, D-625, D-626, D-605.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed.) Bruce C. Jones.

Sworn to and subscribed before me this the 21st of October, 1901.

(Signed) C.R. Breckenridge,

Commissioner.

File with Case of Amanda Hill, et al., C.F.-D. #625.

Supl. C.F.-D. #607.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Vinita, I.T., October 19, 1901.

In the matter of the application for enrollment as Cherokee Freedmen of Abraham Ward, et al., the following supplemental testimony is offered on part of applicants.

Appearances:

Mellette & Smith, Attorneys for applicants;
Mr. Davenport of counsel for Cherokee Nation.

STEPHEN RIDGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Smith:

- Q State your name.
A My name is Stephen Ridge.
Q How old are you?
A I am 80 years old.
Q Are you a colored man?
A Colored man?
Q Yes.
A Yes sir.
Q Where do you live?
A I live in Mound City, Kansas.
Q How long have you lived there?
A Oh, about 37 years.
Q In what year did you go there?
A I went there in '64.
Q In what time in '64; what season?
A Well, I got up there September 12th.
Q To what place now do you refer?
A Mound City.
Q What is your business; what do you do?
A Well, I have done a good many things for a living, but I was employed by the Second Baptist Church there; that is in '65; in the month of May I took charge of the Second Baptist Church there.
Q In what year?
A In '65 in May.
Q Well, in what way did you take charge of it; what did you do?
A I preached the best I knew how.
Q You are a preacher, are you?
A Yes sir.
Q Well, did you know a Peter Ward there?
A Yes sir, I know him.
Q When did you first get acquainted with Peter Ward?
A I was slightly acquainted with him down in Arkansas.
Q When did you first get acquainted with Peter Ward?
A We was slightly acquainted, as I stated, down in Arkansas; no, I will take that back if you will please: I got a little kinder off: I can't keep memory like I used to.
Q Just tell us when you got acquainted with him?
A We was slightly acquainted in the old Territory; wasn't that right; was it?
Q Just stop now and tell us when you first knew Peter Ward.
A Well, I was correct after all.
Q Ever know Peter Ward in Kansas?
A Yes sir.

- Q How long had you been up there in '64 before you became acquainted with Peter Ward?
- A Oh, I became acquainted with him the first month I went up there; that was in '64.
- Q About how long did you know him there in Kansas?
- A Oh, I knew him all the while; while he was there until he came away.
- Q Well, about how long was that.
- A O, I guess not over a year after I got up there: that is as long as we lived together. Well, if you will let me state it.
- Q Go ahead now.
- A Well, the way this came up; how I got so well acquainted with him was there as I told you; the church got me, employed me for a preacher and he was then a member of that organization and was a deacon in that church, and you recollect we had our monthly meetings to transact our business there once a month and of course we had a great deal of business together; that is the way I became so well acquainted with him; we were both members of the same church.
- Q Do you know what the last business was that Peter Ward transacted there in that church, or when it was?
- A Yes sir. He was with us the 17th of June, '66; that is the last time he transacted business with us.
- Q The last time he transacted business with you in the church?
- A Yes sir.
- Q What did you do then?
- A We elected another deacon in his place.
- Q What business was it you transacted on the 17th day of June, '66?
- A Well, the reason I remember so well about that, I remember being the last in receiving a member into the church, we--he took a stand against it; that is what keeps me in remembrance of it so well, and it was the last transaction in the church.
- Q Have you any book or church record?
- A I have got that first little book we had, but I haven't got it in my pocket; I had it in the forenoon and went down to dinner and thought I wouldn't have no use for it and left it in my valise.
- Q By what did you fix the dates of these church meetings and matters that you have talked about?

Mr. Davenport: I object to that unless you get the book up here.

- A The first time the church meetings was for a while we always had out church meetings on the Saturday before the first Sunday in the month and then we changed it, I requested the church to change it to Saturday before the Second Sunday on account of the other organization I had joined.
- Q Well, after that time in June, '66, that you speak of, what became of Peter Ward; do you know whether he remained in that neighborhood, or did he go away from that neighborhood?
- A I heard he came to the Territory.
- Q Did you ever see him there any more?
- A No sir, I never saw him there any more; didn't see him any more--oh, I don't know for several years.

Mr. Davenport:

- Q Who is this you are talking about?
- A Peter Ward.
- Q What Peter Ward?
- A Why Peter Ward that 's dear, I know.

Q Just Peter Ward?
A Yes sir.
Q Did you ever see more than one Peter Ward in your life?
A No sir.
Q You saw one in Arkansas?
A That is the same one.
Q How many children did Peter Ward have?
A Oh, I don't know.
Q Did all of his children go away when he did, or not?
A I don't know whether they all went away at the same time or not; I know they all left.
Q All left eventually?
A I would not swear to that.
Q Have you been living there at Mound City, Kansas, continuously, since that time?
A Yes sir.
Q Don't you know that one of his family lives up there now and has been since the War; one of his boys?
A I don't know; which one?
Q I am asking you if you know.
A Oh no, I don't know.
Q What boys do you know?
A I know some of the older ones.
Q What is one of the older ones name?
A There was Berry, and Abraham and Squire; I know them all; and he had one named Ben, and he had one, I won't be positive, but I tell you I know them; and another one was.
Q That is the last time you saw Peter in the church?
A Yes sir.
Q Have you been custodian of the church books ever since that time?
A No, no, we had clerks.
Q Have you been paster in charge of that church ever since 1866?
A No sir.
Q Have you lived in Mound City all the time since that time?
A Yes sir.
Q Who do you know up there?
A I know quite a number of folks.
Q Do you know J.B. Brown up there?
A What J.B. Brown?
Q Just J.B. Brown is all I know.
A I know one Brown.
Q Well, do you know a fellow by the name of J.L. Ward that lives up there?
A What is he?
Q He is a white man or Indian.
A I know Mr. Ward.
Q Well, do you know E.B. Osbourn?
A Buy Osborn, I know him. He lives there in Mound City.
Q Well, do you know C.W. Kingsberry?
A There is a man that lives about there, about three miles above Mound City, I know him by name perfectly well, but I never got so well enough acquainted with him to know him when I see his face, but I know there is such a man as that.
Q When did you look up that church record to see when the last time Brother Peter Ward officiated with you?
A I just looked it up here about a week ago.
Q Where had that book been all the time?
A I had it in my possession.

Q You made the entries in the book?

A No sir, I told you we had a clerk and he was not a member of the church, and then we had, or rather thought we ought to have, a clerk that was a member of the church, and then they selected a man by the name of Sam Clerk, he is dead now, and after he left and went down to Iola, or someplace.

Q Well, you don't know where Ward went after he left there?

A I don't know no more than what he said; said he was going to the Territory.

Q When was that?

A That was in '66.

Q How do you know it was in '66?

A Because.

Q Does your book say that?

A Yes.

Q Your book says Ward had resigned because he was going to the Territory?

A No, the book don't say so, but I noticed this in order to find out about the time when Peter Ward left there, I remember; I say it was the 17th day of June, as I stated. It was the 17th day of June, and when I found I remembered when looking over it, I noticed that that was the last time Brother Ward was there with us to transact business and it was on the 17th day of June, '66; but he never was with us any more after that in our transactions in the church and of course that give me a very good reason to believe that he came right off because he had been talking of it before.

Q You don't know that he moved at once to the Territory?

A I don't know; that is I don't know what day he left on; I know he never was with us in church meeting after that, and I have always believed he come right straight to the Territory because I never saw him any more; if he had been up there in the neighborhood he would have been in the church meetings.

Q You are just imagining that?

A I know that because he was a faithful member and never missed.

Q Did your members attend all the time or did some of them backslide?

A I could not tell you much about that, because we always has some little backsliding in the churches, and of course we didn't keep track of it all the time.

Q Where was it in Arkansas you saw this fellow?

A We met in Maysville; Well, we wasn't well acquainted then as we might have been, but remember when we met here in Kansas that we had met before.

Q Well, where was you living when you met this man at Maysville, Arkansas?

A I was living on Honey Creek.

Q In what country?

A In the Indian Territory.

Q Are you a Freedman?

A I am a Freedman, but I have about give it up because you have took such stand here against us freedmen, and because we lived a little while in Kansas; we could not live here; I have spent about a hundred dollars to get my name on, and did have my name on the Wallace Roll, and when I come to find it could not find it.

Q Did you get your name on the Kern-Clifton Roll?

A No sir. I didn't know when was the proper time; I come too late.

Commissioner Needles:

Q Had Peter Ward been talking to you about coming to the Territory?

A Yes sir, he talked it all around there; it was known all over the neighborhood he was coming to the Territory and of course we

calculated when he left there that he come to the Territory and I believe that with all my soul.

Mr. Davenport:

Q He has been talking to you since you have been down here this time?

A We talked a good deal; we always do when we meet; I have been down here several times before since he come, but I didn't meet him after he come down here, I expect it must have been five or six years afterwards. Well, the first time I met him was when I come to get my name on the Wallace roll after he come.

(Application is continued until the witness can send any get the book of which he has been referring.)

Q In giving your testimony awhile ago when you referred to your church book, is the name of Peter Ward shown in the book on the date you referred to as fixing the date that he last officiated with you at the church?

A No sir.

Commissioner Needles: This testimony will be made part of the record in the case at bar and part of the record in D-608, D-610, D-611, D-613, D-425, D-615, D-616, D-618, D-619, D-621, D-622, D-623, D-625, D-626, D-605.

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J.O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case and that the foregoing in a true and complete transcript of his stenographic notes thereof.

(Signed) J.O. Rosson.

Subscribed and sworn to before me this November 5, 1901.

(Signed)

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 28th 1901.

In the matter of the application of Abraham Ward et al., C. F. D. #607
SUPPLEMENTAL TESTIMONY

Appearances:

W. W. Hastings for the Cherokee Nation.
Mellette & Smith for the applicants

By Mr. Hastings: I desire to file a certificate from J. A. Gady, County Clerk of Linn County, Kansas, showing that from the Assessment rolls of Mound City Township in Linn County Kansas, for the year 1867, there appears the following: " Peter Ward, one Female dog."

By Mr. Smith: The applicants object to the introduction in evidence of the above mentioned instrument, because it appears from the face that the same is not a certified copy of any record, but a statement of one J. A. Gady, certified to by him, the same not being within the rules of law in this jurisdiction in regard to the introduction of certified copies of records; and not being the best evidence, and for the further reason that the person named therein is in no way identified with the applicant in this case.

By Commissioner C. R. Breckinridge: The document in question will be filed in this case, the objection of counsel for the applicant will be noted and the matter will receive the further consideration of the Commission.

=====
(COPY)

State of Kansas: ss.
County of Linn:

I, J. A. Gady County Clerk within and for the above named County and State, do hereby certify that I have examined the Assessment rolls of Mound City Township in Linn County, Kansas, for the year 1867 and find that Peter Ward is listed on said rolls as follows: " Peter Ward, one Female dog." said entry is on page 75 of said rolls. Said assessment rolls were filed in the office of said County Clerk on July 1, 1867, and said assessment and list of property owners was taken during the month of March, 1867, and based upon residence of said County for March 1, 1867, by said assessor.

Witness my hand and official seal at Mound City, Kansas, this 28th day of October, A. D. 1901.

(Signed) J. A. Gady
(SEAL) County Clerk of Linn County, Kansas.

=====
By Commissioner Breckinridge: In the matter of the foregoing alleged certificate of the records of Linn County, Kansas, it is directed that copies of the alleged certificate and the objection to their filing of Counsel for the applicants, be filed in the cases to which this case refers and all subreferences thereto as found upon the records of this Commission.

=====
Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the above proceedings, and that the above copy of the certificate filed in this connection is a true and correct copy of the original, and further that the above is a full and correct transcript of his stenographic notes in said proceedings.

Subscribed and sworn to before me this 28th of November, 1901.


Commissioner.

Freed D 880

Department of the Interior
Commission to the Five Civilized Tribes.
Muskogee, I.T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W.W.Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Amanda Hill, D 625;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W.W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and perfect transcript of his stenographic notes thereof.

(Signed) E.G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P.G. Reuter,

(SEAL)

Notary Public.

I, E.C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

(Signed) E.C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

(Signed) P.G. Reuter

SEAL

Notary Public.

The undersigned, being duly sworn states that stenographer to the Commissioner to the Five Civilized Tribes, she made the above copy, and that same is a correct and true copy of the instrument now on file in this office.

May Labor Malory

Subscribed and sworn to before me this 23rd day of February, 1907.

James B. Davis
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERCY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitnire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Amanda Hill, D 625;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and perfect transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Amanda Hill, et al. as Cherokee Freedmen, consolidating the applica-
tions of

Amanda Hill, et al.,.....Cherokee Freedmen D 625
Andy Webber,.....Cherokee Freedmen D 959

DECISION.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Amanda Hill for herself and her minor children, Della, Flossie and Sadie Hill, and by Andy Webber for himself. The testimony in the matter of the applications of Abraham Ward, et al. and Daniel Thompson, et al. are made a part of the record herein.

The evidence shows that the applicants, Amanda, Della, Flossie and Sadie Hill, were born since 1866 and are the descendants of Johnson Webber and Margaret Ward; that Andy Webber was born since 1866 and is a descendant of said Johnson Webber and Frances Webber.

The evidence further shows that Johnson Webber and Margaret Ward were the slaves of Cherokee citizens at the commencement of the rebellion; that they were taken out of the Cherokee Nation during the rebellion, but did not return thereto within the time specified, in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitnair, trustee, etc., vs. The Cherokee Nation, et al., for the return of freedmen to said nation. It does not appear that the said Frances Webber was the slave of a Cherokee citizen, or a free colored person residing in the Cherokee Nation at the commencement of the rebellion. None of the names of the applicants herein are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Amanda Hill, Della Hill, Flossie Hill, Sadie Hill and Andy Webber should be denied, under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.


Chairman.


Commissioner.


Commissioner.

Commissioner.

Muskogee, Indian Territory,
this JUL 23 1904

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

In the matter of the application for the enrollment of Amanda Hill, et al., as Cherokee Freedmen, consolidating the applications

of

Amanda Hill, et al., C. F. D. 625,
Andy Webber, C. F. D. 959.

M O T I O N.

Comes now the applicants, Amanda Hill, et al., and moves the Department to take action upon the "Motion for review of Decision and re-consideration of cases" filed with the Department in this case on January 25, 1905, if it is shown by the records of the Department that no action has heretofore been taken by the Department on said Motion with reference to Amanda Hill, et al.

By Departmental letter of May 7, 1906 (DC 17741; I. T. D. 7582-1904; 875-1905; 1596-1905) the Department remanded this consolidated Cherokee Freedmen Enrollment case in-so-far as it applied to Andy Webber, and said letter does not show that any final action was taken in said case upon said Motion in-so-far as it applied to Amanda Hill, et al., For easy reference a copy of said Departmental letter is hereto attached, also a copy of the "Motion for review of Decision and re-consideration of cases" herein referred to is attached hereto for the purpose of showing that said "Motion for review of Decision and re-consideration of cases" applied to the applicants, Amanda Hill, et al., as well as to Andy Webber.

THEREFORE, if the records of the Department show that no further action has been taken upon this "Motion for review of Decision and re-consideration of cases" in-so-far as it concerns Amanda Hill, et al., we move the Department to remand the Cherokee Freedman enrollment case of Amanda Hill, et al., for rehearing in order to give the applicant an opportunity to show that Amanda Hill is the daughter of Johnson Webber, who was decided entitled to enrollment by the judgment of the Supreme Court of the Cherokee Nation in 1871, commonly known as the Daniels Court.

In support of this Motion attention is respectfully called to the fact that on January 12, 1907 the Honorable Commissioner to the Five Civilized Tribes rendered a Decision granting the application for the enrollment of Andy Webber as Cherokee Freedman because he was a descendant of Johnson Webber, the same person through whom Amanda Hill claims her right to enrollment.

The testimony in the Andy Webber case shows that Amanda Hill is his half sister and the Decision in the consolidated cases shows that both Amanda Hill and Andy Webber are descendants of Johnson Webber. It is therefore clear that if Andy Webber is entitled to be enrolled as a Cherokee Freedman because he is a son of Johnson Webber, then Amanda Hill is also entitled to be enrolled because she is the daughter of the same Johnson Webber.

RESPECTFULLY,

Starr & Patton

Jca.
Attorneys for Amanda Hill, et al.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY) S.S.
NORTHERN DISTRICT)

AMANDA HILL, of lawful age, being duly sworn, on her oath, deposes and says:- "My name is Amanda Hill; my Post Office is Vinita, I. T. I am a half-sister of Andy Webber. The name of my father was Johnson Webber and the said Johnson Webber was also the father of Andy Webber. My Mother's name was Margaret Webber and after her death my father married Frances Webber (nee Sanders), who is the mother of Andy Webber. My Father, Johnson Webber, was admitted to citizenship by the Daniels Court, or the Supreme Court of the Cherokee nation in 1871 and I ask to be enrolled as a Cherokee Freedman because I am a descendant of the said Johnson Webber.

Amanda Hill

Subscribed and sworn to before me this 16th day of January, A. D., 1907.

Commission Expires Dec. 4, 1909

[Signature]

Notary Public.

DEPARTMENT OF THE INTERIOR J. F. Jr.
WASHINGTON

D. C. 17741

I. T. D. 7000-1001.

1894. *

L. R. S.

Commissioners to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On September 30, 1904, the Department affirmed the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated Cherokee Freedmen case of Anania Hill et al. (F.D. 900--2, 000).

On January 25, 1905, a motion for review of the decision and reconsideration of the case was filed by the attorneys for the applicants. This motion refers to certain affidavits which were submitted with a communication from Andy Webber, an applicant, dated August 6, 1904, which communication of January 18, 1905, the Department declined to entertain as a motion to reopen the case.

It is considered that the papers in the case, in so far as they apply to Andy Webber, tend to show that said decision of September 30, 1904, relative to the application of Andy Webber, is reconsidered and you are directed to reopen said case and permit the applicant and attorneys for the Nation to offer such testimony as they may desire to submit as to whether Frances Webber was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation.

Full notice all parties in interest of the points in issue. The record, together with the affidavits and motion, are returned herewith.

Respectfully,

John B. Wilson

Assistant Secretary.

Through the Commissioner
of Indian Affairs

DEPT. OF THE INTERIOR
WASHINGTON, D. C.

To the Honorable,

The Secretary of the Interior:

In the matter for the application for the enrollment of
Amanda Hill et al. as Cherokee Freedmen, consolidating the
application of :

Amanda Hill et al, -----C.F.D- 625
Andy Webber C.F.D- 955

NOTICE FOR REVIEW OF DECISION AND RECONSIDERATION OF CASE

Came now by their attorneys, Blue and Bulger, the above
named applicants for enrollment as Cherokee Freedmen, and move
the Honorable Secretary of the Interior to review the decision
of the Commission to the Five Civilized Tribes, in the above
named case, dated July 23, 1904, and to reverse said decision
and to order said applicants to be enrolled as Cherokee Freedmen
or to remand the above named cases to the Commission to the Five
Civilized Tribes for further consideration, for the reasons
that said decision of said Commission is contrary to the law
governing in such cases, and is not warranted by the facts as
shown by the report, and the affidavits of Judge Jim Kays,
Lucinda Kays and Judge George Sanders, all Cherokee citizens
by birth, and which affidavits have been forwarded to the De-
partment, and have referred by the Department to the Commissioner
of Indian Affairs for proper consideration, as stated in Depart-
mental letter (I. E. D. 6287/04) addressed to Andy Webber,
Generalin, Indian Territory, October 21, 1904.

Respectfully submitted.

Attorneys for applicant.

Service of the above notice accepted, and a copy of the same
received by the attorneys for the Cherokee Nation this day
of January 1905, at Vinita, Indian Territory.

Bill, Jennings & Burdett,
Attorneys for Cherokee Nation

By

secretary.

501 200

10313

10313

13665

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } SS.

Proof of Service.

..... W. W. HASTINGS of lawful age, being duly sworn, says that
8 he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered
containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered
to W. W. HASTINGS

at Muskogee, Indian Territory , as shown by the receipt of the postmaster
hereto attached. Which said postoffice is shown by the records of the ~~Department of the Interior~~ ~~for the Cherokee Nation~~
to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this 16th day of January, 1906

Jessie Patten
[Signature]

Notary Public.

Commission Expires Dec. 4, 1909

DEPARTMENT OF THE INTERIOR.

In the matter of the motion to reopen the freedmen citizenship case of Amanda Hill, et al., C. F. D. 625.

Reply of the Cherokee Nation.

The record in this case shows that application was made for the enrollment of Amanda Hill before the Commission to the Five Civilized Tribes on the 8th day of June, 1901; that the application for her and the members of her family was denied on July 23, 1904, that this decision of the Commission to the Five Civilized Tribes denying her application, was approved by the Secretary of the Interior on September 30, 1904; that in September, 1905, a motion to reopen said case was filed, which was denied upon the second day of May, 1906; that on April 12, 1906, another motion was filed, which motion to reopen said case was denied on May 7, 1906 (I.T.D. 7582-1904, 1586-1904) in connection with the case of Andy Webber, F. D. 959, and the motion was sustained in the case of Andy Webber in that same letter on May 7, 1906, and I desire to call the attention of the Department to its own language in said letter:

"It is considered that the papers in the case, in so far as they apply to Andy Webber, tend to show that said decision of September 30, 1904, may be erroneous. That portion of departmental decision of September 30, 1904, relative to the application of Andy Webber, is rescinded and you are directed to reopen said case and permit the applicant and the attorneys for the nation to offer such testimony as they may desire to submit as to whether Frances Webber was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation."

It will be noted that the Department directed the reopening of the case for the one purpose of investigating whether or not Frances Webber, the mother of Andy Webber, was the slave of a citizen of the Cherokee Nation, and whether or not she returned within the time prescribed by the treaty of 1866. Now the mother of Amanda Hill, the principal applicant in this case, was Margaret Ward, whereas the mother of Andy Webber was Frances Webber. In other words, they had different mothers. The motion was refused as to Amanda Hill and allowed as to Andy Webber on May 7, 1906

Section 1 of the Act of April 26, 1906 (Public No. 129), provides;

*****no motion to reopen or reconsider any citizenship case, in any

citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act:***

Amanda Hill was rejected and that rejection affirmed by the Secretary of the Interior on September 30, 1904, and the first motion to reopen her case was denied by the Secretary on May 2, 1906, and again on May 7, 1906, and we submit that under the Act hereinabove quoted, that the Secretary of the Interior is without jurisdiction to consider a motion to reopen this case, for the reason that the same was not filed within the sixty days after May 7, 1906, as required by the Act.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

Muskogee, I. T., Jan. 30, 1907.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Amanda Hill et al
as a citizen of the Cherokee Nation.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY,) SS Affidavit to Show Service.
WESTERN DISTRICT.)

This day personally appeared before me the undersigned a Notary Public for the Western District of the Indian Territory, H. M. Vance, who being by me first duly sworn on oath states, that his age is twenty-seven years and that his postoffice is Muskogee, Indian Territory, and that on the 30th day of January, 1907, he deposited in the United States post-office at Muskogee, Indian Territory, an envelope containing a true copy of the instrument hereto attached and he hereto attached the receipt of the postmaster of said postoffice showing that he had received said package to be duly registered and mailed to Starr & Patten, Attorneys, J. D.

H. M. Vance

Subscribed and sworn to before me this the 30th day of January, 1907.

Edward Miller
Notary Public.

My commission expires January 6, 1910.

U. S. Registered Mail—go to every post office in the world. Letters, parcels, and all other valuables may be sent by Registered Mail, and will be insured against loss or damage by fire or theft. For full particulars, see Circular No. 1, U. S. Department of the Interior, Bureau of Indian Affairs.

Letter, No. _____ P. O., Muskogee, Ind. T.

Received for registration _____, 1907, from _____

addressed to _____

in connection with _____

Postmaster, per _____

10748

Indian Office,

FEB 2

Incl. No. 2

1907

IN THE DEPARTMENT OF THE INTERIOR,
WASHINGTON.

In the matter of the application for the enrollment of Amanda Hill,
et al., as Cherokee Freedmen, consolidating the applications of:--

Amanda Hill, et al., Cherokee Freedmen D 625,
Andy Webber, Cherokee Freedmen D 959.

* * * * *

REPLY TO THE REPLY OF THE CHEROKEE NATION.

There has been served upon us by registered mail a copy of the
Argument of the Attorney for the Cherokee Nation in this case, entitled,
"Reply of the Cherokee Nation", in which Argument the Attorney for the
Cherokee Nation undertakes to say---

"The record in this case shows that application was made for
the enrollment of Amanda Hill before the Commission to the Five Civilized
Tribes on the 8th day of June, 1901; that the application for her and
the members of her family was denied on July 23, 1904, that this decision
of the Commission to the Five Civilized Tribes denying her application,
was approved by the Secretary of the Interior on September 30, 1904; that
in September, 1905, a motion to reopen said case was filed, which was de-
nied upon the second day of May, 1906; that on April 12, 1906, another
motion was filed, which motion to reopen said case was denied on May 7,
1906 (I.T.D. 7582-1904, 1596-1905) in connection with the case of Andy
Webber, F.D. 959, and the motion was sustained in the case of Andy Webber
in that same letter on May 7, 1906, etc-----"

It will be observed from the statement of the Attorney for
the Cherokee Nation that he has entirely overlooked the fact that on
January 25, 1905, a "Motion for review of decision and reconsideration
of cases" was filed by the attorneys for Amanda Hill, et al., and Andy
Webber in the Department of the Interior, which said motion being filed
in the consolidated cases of Amanda Hill, et al., and Andy Webber, and
which said motion applied to both cases alike, and that on May 7, 1906
the Department in Departmental letter of that date (D. C. 17741) in
passing upon that motion stated as follows:--

"DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

J.F.Jr.

D.C. 17741
I.T.D. 7582-1904.
875-1905.
1596- "

May 7, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On September 30, 1904, the Department affirmed the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated Cherokee freedman case of Amanda Hill et al. (F.D. 959--D.625).

On January 25, 1905, a motion for review of the decision and reconsideration of the case was filed by the attorneys for the applicants. This motion refers to certain affidavits which were submitted with a communication from Andy Webber, an applicant, dated August 6, 1904, which communication on January 18, 1905, the Department declined to entertain as a motion to reopen the case.

It is considered that the papers in the case, in so far as they apply to Andy Webber, tend to show that said decision may be erroneous. That portion of departmental decision of September 30, 1904, relative to the application of Andy Webber, is rescinded and you are directed to reopen said case and permit the applicant and the attorneys for the nation to offer such testimony as they may desire to submit as to whether Frances Webber was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation.

Fully advise all parties in interest of the points in issue.

The record, together with the affidavits and motion, are returned herewith.

Respectfully,

Jesse E. Wilson,
Assistant Secretary.

Through the Commissioner
of Indian Affairs."

It will be observed that in passing upon that motion the Department only acted upon that part of it that refers to Andy Webber and nothing is said in the departmental letter hereinabove referred to concerning the case of Amanda Hill, et al., and from the records we have it does not appear that any action has ever been taken on this motion so far as Amanda Hill, et al are concerned. The Attorney for the Cherokee Nation quotes Section 1 of the Act of April 26, 1906 (Public No. 129) which provides:

"No motion to reopen or reconsider any citizenship case, in any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act:---"

The Attorney for the Nation says:-

"Amanda Hill was rejected and that rejection affirmed by the Secretary of the Interior on September 30, 1904, and the first motion to reopen her case was denied by the Secretary on May 2, 1906, and again on May 7, 1906, and we submit that under the Act hereinabove quoted, that the Secretary of the Interior is without jurisdiction to consider a motion to reopen this case, for the reason that the same was not filed within the sixty days after May 7, 1906, as required by the Act."

In reply to the argument of the Attorney for the Cherokee Nation wherein he says "and the first motion to reopen her (Amanda Hill's) case was denied by the Secretary of the Interior May 2, 1906 and again on May 7, 1906" we desire to call the attention of the Department to the fact that in Departmental letter dated May 2, 1906, (D.C. 16400-1906) the Department denied a large number of "Motions for review of decision" filed September 7, 1905 by Blue & Bulger, in the Departmental letter referring to the Cherokee Freedmen enrollment case of Eliza A. Arnold named in Departmental letter. This action of the Department denied that particular motion filed by Blue & Bulger, which said particular motion referring to Andy Webber as much as it did to Amanda Hill and in dismissing this motion the Department in this letter stated:-

"D.C. 16400-1906

I.T.D.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Y. P.
FHE

L R S

May 2, 1906

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of the provisions in section 3 of the act of April 26, 1906 (Public No. 329), relative to Cherokee freedmen, the "motions for review of decision", filed September 7, 1905, in the following cases, of which you were advised January 15, 1906, defective in almost every particular, are hereby dismissed. As the date of the decision complained of is not given, but only the name of the claimant, the Department is uncertain in several instances to what particular case the motion relates. etc. etc----

It will be observed that among the persons named in said Departmental letter of May 2, 1906, some have since been enrolled by the Department, namely, Mary Bean, Josh Vann, et al., Lettie Brown and others and we understand that this motion filed by Blue & Bulger September 7, 1905 was one among the so-called 'Seven Hundred and eleven motions' filed by them in freedmen cases and they were all dismissed by the Department because the date of the decision complained of was not given and that the Department was uncertain in several instances to what particular case the motion referred. This action of the Department on May 2, 1906 dismissing these motions filed September 7, 1905 was taken May 2, 1906 and did not affect in any way the motion filed on January 25, 1905. This motion filed on January 25, 1905 was pending in the department on May 7, 1906, when the Department acted upon the motion in Departmental letter of May 7, 1906 (D.C. 17741) herein quoted and remanded the case of Andy Webber for the

purpose of investigating what rights he might have through his mother, Frances Webber, but at that time the Department, as will be seen from Departmental letter of May 7, 1906, did not deny the "motion for review of decision and reconsideration of cases" that was at that time filed in the consolidated cases of Amanda Hill, et al., and Andy Webber and we contend that this motion filed January 25, 1905 is still pending and has not been acted upon. Said motion is as follows:-

**BEFORE THE DEPARTMENT OF THE INTERIOR
WASHINGTON, D.C.**

To the Honorable,

The Secretary of the Interior:

In the matter of the application for the enrollment of Amanda Hill et al, as Cherokee Freedmen, consolidating the applications of:

Amanda Hill et al,---C.F.D.-625

Andy Webber-----E.F.D.-959

MOTION FOR REVIEW OF DECISION AND RECONSIDERATION OF CASES.

Come now, by their attorneys, Blue & Bulger, the above named applicants for enrollment as Cherokee freedmen, and move the Honorable Secretary of the Interior to review the decision of the Commission to the Five Civilized Tribes, in the above named cases, dated July 23, 1904, and to reverse said decision and to order said applicants to be enrolled as Cherokee Freedmen, or to remand the above named cases to the Commission to the Five Civilized Tribes for further consideration, for the reason that said decision of said Commission is contrary to the law governing in such cases, and is not warranted by the facts as shown by the ~~fact~~ record, and the affidavits of Judge Jim Keys, Lucinda Keys and Judge George Sanders, all Cherokee citizens by blood, and which affidavits have been forwarded to the Department, and have been referred by the Department to the Commissioner of Indian Affairs for proper consideration, as stated in Departmental letter (I.T.D. 8837-04) addressed to Andy Webber, Central Indian Territory, October 21, 1904.

Respectfully submitted,

BLUE & BULGER,

Attorneys for applicants.

Service of the above motion accepted, and a copy of the same received by the attorneys for the Cherokee Nation this day of January, 1905, at Vinita, Indian Territory.

Bell Hastings & Davenport,

Attorneys for Cherokee Nation

By _____

Secretary."

Our contention is this, this motion filed January 25, 1905, was pending in the Department on May 7, 1906 and has never been acted upon and that the department has never lost its jurisdiction to take up this motion and pass upon it. The Act of April 26, 1906, did not deprive the Department of jurisdiction to pass upon this motion because it has been pending at all times and was pending at the time ~~of~~ the Act of Congress referred to became a law. Had the Department on May 7, 1906, denied this motion, the the Department would have lost its jurisdiction now to entertain it,

but since the action has been pending in the Department, we contend that the Department certainly has jurisdiction to pass upon it as ~~we~~^{it} places the Amanda Hill case in the attitude of being a case pending in the Department.

The Andy Webber branch of the case was remanded for rehearing for the purpose of determining what rights he might have through his mother, Frances Webber, but at the trial of the case the Commissioner to the Five Civilized Tribes found that his father, Johnson Webber, applied to the Cherokee Supreme Court in 1871 and that Court decided that he had returned within the time prescribed by the Treaty, and rendered a judgment in favor of him and the Commissioner took the testimony, which shows that Amanda Hill and Andy Webber are the children of this same Johnson Webber, and a decision has been written ordering the applicant, Andy Webber, ~~enrolled~~ enrolled because of the fact that he is a son of the said Johnson Webber. This decision has been forwarded to the Department, where it doubtless is now pending. The testimony in this same case shows that Amanda Hill is a daughter of this same Johnson Webber and clearly shows that if Andy Webber is entitled to be enrolled because of the fact that he is a son of this Johnson Webber who was decided by the Cherokee Supreme Court in 1871 to be enrolled as a Cherokee freedmen, then it clearly follows that Amanda Hill who is a daughter of this same Johnson Webber, is also entitled to be enrolled and we contend that it would be a great injustice to not enroll Amanda Hill when it is found that she has the same claim that Andy Webber has and we contend that the Department has jurisdiction to order the enrollment of Amanda Hill because of the fact that this motion filed Jan. 25, 1905 is still pending and has never been passed upon by the Department and for that reason certainly has jurisdiction to determine the case of Amanda Hill, et al as well as it has to determine the case of Andy Webber and we believe that the Department did not lose its jurisdiction in this case under the Act of April 26, 1906 because this was a case that was pending in the Department at the time on this "Motion for review of decision and reconsideration of cases" and we submit, therefore, that the Decision of the Commission to the Five Civilized Tribes denying Amanda Hill, et al as Cherokee Freedmen ought to be reversed and the applicants ordered enrolled.

Respectfully,

Starr & Patten
ATTORNEYS FOR APPLICANTS.

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

SS.

Proof of Service.

GUY PATTEN of lawful age, being duly sworn, says that he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered to W. W. HASTINGS

at MUSKOGEE, INDIAN TERRITORY, as shown by the receipt of the postmaster hereto attached. Which said postoffice is shown ~~by the records of the Attorneys for the Cherokee Nation~~ to be the postoffice of the party to whom said envelope was mailed.

Letter
Parcel

No.

P. O.

1905

Postmaster

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT.

SS.

Proof of Service.

GUY PATTEN of lawful age, being duly sworn, says that
he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered
containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered
to W. W. HASTINGS

at MUSKOGEE, INDIAN TERRITORY, as shown by the receipt of the postmaster
hereto attached. Which said postoffice is shown ~~by the receipt of the postmaster hereto attached~~
to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this

2nd day of February, 1907
Guy Patten
O. Smith

Notary Public.

Commission Expires Dec. 7, 1907

DEPARTMENT OF THE INTERIOR
RECEIVED
FEB 1 1907
No. 1783
LAND TERRITORY DIVISION

ATTORNEYS FOR APPLICANTS.

STARR & PATTER,

CHEROKEE NATION
REPLY TO THE REPLY OF THE

IN THE MATTER OF THE APPLICATION
FOR THE ENROLLMENT OF AMANDA HILL
ET AL AS CHEROKEE INDIAN. /

13665

13665

IN THE MATTER OF THE APPLICATION
FOR THE ENROLLMENT OF AMANDA HILL
ET AL AS CHEROKEE FREEDMEN. /

REPLY TO THE REPLY OF THE
CHEROKEE NATION

STARR & PATTEN,
ATTORNEYS FOR APPLICANTS.

RECEIVED
JAN 17 1883
U.S. DEPT. OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
Muskogee, I. T. February 19, 1907.

In the matter of the application for the enrollment of
Amanda Hill, et al., as Cherokee freedmen.

APPEARANCES:

For applicants, J. C. Starr.
For Cherokee Nation, W. W. Hastings.

The records of this office show that on February 6, 1907
(I.T.D. 875-1905, 1033, 1870-1907), the Secretary of the
Interior remanded this case to this office for further hear-
ing and readjudication.

The applicants, the attorney for applicants and the
attorney for the Cherokee Nation having been notified
that said case would be taken up for final hearing on
February 19, 1907, the following proceedings were had:

AMANDA HILL, being first duly sworn by Walter W. Chappell,
Notary Public, testified as follows:

By J. C. Starr:

- Q What is your name? A Mandy Hill.
Q What is your age? A I don't know exactly my age.
Q What is your best knowledge? A Its somewhere in the
thirties--about 39.
Q What is your postoffice address? A Vinita.
Q What was the name of your father? A Johnson Webber.
Q What was your mother's name? A Margaret Webber.
Q How long have you lived in the Cherokee Nation? A All
my life.
Q What are the names of your children? A Della Hill.
Q Della Hill the name of the oldest one? A Yes sir, Della
Hill.
Q What is the name of the next? A Flossie Hill.
Q What is the next one? A Sadie Hill.
Q Have you any others? A Yes, one more.
Q What is its name? A Alma.
Q How old is Alma? A She's eleven, going on twelve years
old.
Q How long have you lived in the Cherokee Nation? A All my
life.

- Q What relation are you to Andy Webber? A He's my brother.
Q What was his father's name? A Johnson Webber.
Q What was his mother's name? A Frances Webber.
Q Was Frances Webber the second wife of Johnson Webber?
A Yes sir.
Q Can you remember your mother? A No sir, I don't remember my mother; I was too small.
Q Was she dead before Johnson Webber married Frances? A Yes sir, indeed she was.
Q Did she live with Johnson Webber until she died? A Yes sir.

By Mr. Hastings:

- Q Your mother was named Margaret? A Yes sir.
Q Was she a Ward? A Yes sir.
Q Her father's name was Peter and her mother Louisa? A Yes sir.
Q Your mother was a full sister to Abraham Ward? A Yes sir.
Q Do you know whether your father and mother were married?
A I don't know.
Q Do you know from family information? A Only what they told me---that they were married.
Q Did they tell you where they were married? A No sir, I don't remember my mother at all; father never told me.
Q Have you any family information about it? A No sir.
Q Do you remember your father? A Yes sir.
Q You don't remember your mother? A No sir, I was too small; I don't remember anything at all only about my stepmother.
Q Your mother, Margaret, have any other children than yourself? A Yes sir, one sister.
Q Do you remember her? A Yes sir, remember when she died.
Q What was her name? A Louisa Webber.
Q Older or younger than you? A Older.
Q How much older? A I don't know; two years, I guess.
Q When did she die? A I don't know. I was old enough to know; I don't know the year she died in.
Q How old were you when your sister died? A I guess I was between 12 and 14; I was old enough to know.
Q When did your father die? A I don't know the date; I was married when he died.

By the Commissioner:

- Q You say you have another child beside Della, Flossie and Sadie Hill? A Yes sir, I have one little girl--the baby.
Q What is her name? A Alma.
Q When was Alma born? A I know the day of the month, but I don't know the year; she was born the 7th of August.
Q About how old is she now? A Eleven, going on twelve, the way I got her age.
Q Why didn't you apply for that child when you applied for your other children? A I did.

- Q When you appeared before the Commission at Chelsea on June 8, 1901, on being asked who you desired to have enrolled beside yourself, you said three children? A Well, I mentioned Alma's name and they said I had to make out an affidavit for her.
- Q You didn't mention her name that day? A At Chelsea court?
- Q Yes? A Yes sir.
- Q Is that child living? A Yes sir, she's right up there in Vinita.
- Q Who is the father of that child? A George Hill.
- Q He's the father of all your children, is he? A Yes sir.

Witness dismissed.

~~By Mr. Starr:~~

SAM WEBBER, being first duly sworn by Walter W. Chappell, Notary Public, testifies as follows:

By Mr. Starr:

- Q What is your name? A Sam Webber.
- Q What is your age? A About sixty.
- Q What is your post office address? A Nowata.
- Q Are you acquainted with Amanda Hill the applicant? A Yes sir.
- Q How long have you known her? A Ever since she was born.
- Q When was she born? A She was born in the fall of 1867.
- Q Where was she born? A Big Creek, Cherokee Nation.
- Q How long has she lived in the Cherokee Nation? A Ever since she was born.
- Q Continuously, ever since she was born in the Cherokee Nation in '67? A Yes sir.
- Q What was the name of her mother? A Margaret Ward.
- Q Afterwards known as Margaret Webber? A Yes sir.
- Q What was the name of her father? A Johnson Webber.
- Q Where were Margaret Ward and Johnson Webber married? A Lynn County, Kansas.
- Q When were they married? A Married along in the fall of 1864.
- Q What time of the year, do you know what month it was? A Seems to me it was in December.
- Q December 1864? A Yes sir.
- Q Do you know who married them? A Preacher by the name of Tiles.
- Q Was he a regular preacher? A Yes sir, preacher in the Methodist church.
- Q Did Johnson Webber and his wife, Margaret, live together until one of them died? A Yes sir.
- Q Which died first? A Margaret died first.
- Q Where were they living? A Big Creek, Cherokee Nation.
- Q Is Johnson Webber living now? A No sir, he's dead.
- Q How long has he been dead? A He's been dead now 10 or 12 years; I don't exactly remember---10 or 12 years ago.
- Q Was Johnson Webber a slave at the commencement of the war, of a Cherokee citizen? A Yes sir.
- Q Where did he go? A Went to Kansas.
- Q When did he return? A Late in the fall of '66.

- Q Did he continue to live in the Cherokee Nation from the time he returned in the fall of '66 until his death?
A Yes sir.
- Q How many times was he married? A Twice.
- Q What was the name of his second wife? A Frances Sanders.
- Q Did he have any children by Frances Sanders? A Yes sir.
- Q Name them? A Andy, Carrie, Annie---the baby I can't name it---it was young when it died.
- Q Is the Andy Webber who is an applicant in this consolidated case the son of Johnson Webber? A Yes sir.
- Q According to your testimony, then, Andy Webber was a half-brother to Amanda Hill, the applicant? A Yes sir.
- Q Do you know whether or not Johnson Webber, the father of Amanda Hill, applied to the Cherokee Supreme Court in 1871, known as the Daniels Court, for trial of his citizenship case in the Cherokee Nation? A Yes sir, he applied.
- Q The Johnson Webber who applied to that court in 1871 was the same Johnson Webber who is the father of this applicant, Amanda Hill? A Yes sir.
- Q What action was taken by that court with reference to the rights of Johnson Webber? A They enrolled him.

By Mr. Hastings:

- Q When was Johnson Webber married the second time---to Frances Sanders? A He married two years after his wife died.
- Q In what year? A Let me see---I don't remember exactly.
- Q Don't you know what month he was married in to his second wife? A Along in the summer.
- Q Now you have been shown a marriage certificate of Johnson Webber and Margaret Ward before you came upon the stand to testify? A I seen it, but I know when they was married, they had a big time.
- Q And this marriage certificate that is going to be introduced shows that they married in 1864? A Yes sir.
- Q You saw that from this marriage certificate before you came on the stand? A I knew it before.
- Q You saw it on the marriage certificate? A Yes.
- Q Do you know when he married Frances Sanders? A Not exactly.
- Q You don't know when your brother died? A He died---the Association was running in July when he died.
- Q What year? A I don't remember.
- Q What year did Margaret his wife, die---Margaret Webber? A This girl was going on two years old when she died---'69, sometime.
- Q Do you remember the month? A It was along in September.
- Q Is Frances Weber, the mother of Andy, dead? A Yes sir.
- Q When did she die? A She died about---its been 9 or 10 years ago.
- Q Do you remember the year? A No sir, not exactly.
- Q Did you have any other brothers beside Johnson? A Yes sir.
- Q What are the names? A Alfred and Aaron.
- Q Were they married? A Alfred never was married, he got killed at the time of the war.

- Q Was Aaron ever married? A No sir.
- Q Only two brothers you had? A Only two.
- Q Have you been married the second time? A Yes sir.
- Q When was the date of your second marriage? A Let me see now---the third day of March, 1878, I believe.
- Q You are not right positive? A I am most sure it is.
- Q You testified in this case before, didn't you? A Yes sir.
- Q You didn't say anything then about Johnson Webber being admitted to citizenship? A Yes sir, I was on the stand and told all about it.
- Q When was that? A At Chelsea, when the Commission was at Chelsea.
- Q You told them during that examination that Johnson was admitted? A Yes sir, and you told it right there to Colonel Needles.
- Q Did you testify to that? A Yes sir.
- Q At what time of the year was he admitted? A In the summer.
- Q About what month? A No sir, I don't remember; I know we all went down there in the summer.
- Q Well, July, August, September? A I won't be sure just what month it was, but he was sure enrolled, same day I was.
- Q Well, they were hearing the applications to be enrolled as freedmen, at that time? A Yes sir.
- Q Taking testimony in their cases? A Yes sir.
- Q Was Johnson's a separate case from yours and your fathers? A All combined.
- Q All one case? A Might say, al one case.
- Q How old was Johnson at that time? A He was older than me-- I don't know just how old he was. He was my oldest brother.
- Q You testified at Chelsea that Johnson and his wife came back to this country together, didn't you? A Yes sir.
- Q You also testified at Chelsea that they came back at the same time as Peter Ward? A Yes sir.
- Q You testified they came back together, didn't you? A Yes sir.
- Q Do you remember Abraham Ward came on the stand in the same case that you did and testified that Johnson Webber and this girl's mother were married in Kansas and that they came to the Cherokee Nation with them? A How's that?
- Q Abraham Ward went on the stand and testified in that same case that Johnson Webber and Margaret, his sister, were married in Kansas and that they came down here when they did? A Yes sir.
- Q I will ask you if you were not asked this question at that time, namely, at Chelsea, on June 8, 1901: Q When did Johnson Webber come back to the Cherokee Nation?
A With the Ward family.
- Q Did he come with Abraham Ward? A Yes sir.
- Q You testified in his case this morning, didn't you? A Yes sir.
- Q I will ask you if those questions were not asked and the answers given that I had read, at the time you were on the stand at Chelsea on June 8, 1901? A How is that?
- Q Didn't you give those answers that I have read? A Yes sir, I gave them.
- Q Were there a good many of you freedmen at Tahlequah at the time the applications were made for the enrollment before the Daniels Court? A Yes sir, good many there.

- Q They were hearing applications for the enrollment of freedmen at that time? A Yes sir.
- Q Taking testimony in freedmen cases? A Yes sir.
- Q Did they take a good many cases? A Took five while I was there.
- Q You have heretofore testified that that was all they took? A All I ever heard of, and I was one of them.
- Q What five was it that was enrolled? A My father, Sam Webber, second, Johnson Webber, third, myself; Harry Still and Charlie Campbell.
- Q You have previously testified that was all was enrolled? A That's all I know about; I lived 80 miles from Tablequah.
- Q You testified that the court came out and gave the announcement that they were not going to hear any more freedmen cases? A Yes sir.
- Q Don't you know as a matter of fact and as a matter of record that a great many freedmen were admitted and that numbers of them were admitted after the date on which you were admitted? A If they was, I don't know.
- Q Did you ever hear of it? A No sir.
- Q Could it be true that they sent them all away from there---

By Mr. Starr:

Attorney for applicants objects to this line of testimony because it is not proper cross-examination on the matter brought out, it is incompetent, irrelevant and immaterial.

By the Commissioner:

The objection will be noted and the witness required to answer. Will you repeat the question? (to attorney for Cherokee Nation).

By Mr. Hastings:

- Q Could it be true that they sent them all away from there and yet heard their applications and took testimony and admitted them after that? A If they did, I don't know it.
- Q Are you the same Sam Webber who testified in the freedman case of Beckey Webber, FD 435? A Yes sir.

I here call attention to the fact that Beckey Webber's rejection was affirmed by the Secretary on May 31, 1906.

By Mr. Starr:

Attorney for applicants moves to strike from the record the notation calling attention to the rejection of Beckey Webber for the reason that the testimony of the applicant is not shown to have been on a material point in that case.

By Mr. Hastings:

When all of these cases are in, in the event that the Commissioner to the Five Civilized Tribes desires to investigate the materiality of the testimony of the witnesses in each of these cases referred to, we have no objection whatever to him doing it, but if this witness has testified in a great number of cases and if practically all of these cases have been rejected and their rejection affirmed by the Secretary of the Interior, we believe it is our duty to call attention in the record to that fact.

By the Commissioner:

The motion of the attorneys for the applicants will be noted and the record will be allowed to stand as it is.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case of Harriet Daniels, F. D. 437? A Yes sir.

By Mr. Starr:

The attorney for the applicants moves to strike from the record the question and answer for the reason that it is incompetent, irrelevant and immaterial and this case was remanded by the Department in order that the applicant might introduce testimony as to the marriage of her parents.

By Mr. Hastings:

It will be noted, in reply to the attorney for the applicants that this witness has been introduced and it was inquired of him, not only about the marriage of the parents, but the return of the parents, the birth of this applicant and the alleged admission of her father to citizenship in the Cherokee Nation. In other words, all of these questions were gone into and these questions are being asked by this witness now for the purpose of discrediting him, by showing that he has testified in these cases referred to and that they were rejected by the Commission to the Five Civilized Tribes and its rejection was affirmed by the Secretary of the Interior.

By Mr. Starr:

Referring to the argument of the attorney for the Cherokee Nation, I desire to call attention to the Departmental letter of February 6, 1907 (I.T.D. 1870-1907), remanding this case for rehearing and that said Departmental letter affirmed the decision of this Commissioner enrolling Andy Webber because he was the son of Johnson Webber, through whom this applicant claims, and it is now the purpose to prove that this applicant, Amanda Hill, is the daughter of the same Johnson Webber, and a half-sister of Andy Webber, who was enrolled by said Departmental letter. For that reason I believe that the inquiry about other matters is incompetent, irrelevant and immaterial and has no place in this record.

By Mr. Hastings:

If this witness is permitted to be introduced for any purpose, it makes no difference what that purpose is, then we have a right to introduce any testimony or any record or any circumstances which will tend to discredit him and that is the purpose of the reference to these cases.

By the Commissioner:

The motion and statement made by the attorney for the applicants will be noted and the witness will be required to answer the question propounded by the attorney for the Cherokee Nation.

By Mr. Hastings:

Attention is invited to the fact that the rejection of Harriet Daniels was affirmed by the Secretary of the Interior on January 4, 1904.

Q Are you the same Sam Webber that testified in this case?
A Yes sir.

By Mr. Starr:

The applicants move to strike from the record the statement as to the action of the Department in the case referred to for the reason that it is not shown that the witness testified to a material point in that case.

By the Commissioner:

The motion of the attorney for the applicant will be noted.

(9)

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case of William H. Blackman, F.D. No. 555? A Yes sir.

Attention is invited to the fact that his rejection was affirmed by the Secretary of the Interior April 26, 1904.

By Mr. Starr:

Applicants object to calling attention to these decisions for the reason that the attorney ~~XXXXX~~ for the Cherokee Nation does not attempt to show that the witness testified to a material point in that case that the Department was wrong.

By the Commissioner:

Objection will be noted.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case of Catherine Ward, F.D. No. 562? A Yes sir.

Attention is invited to the fact that the rejection of the said Catherine Ward was affirmed by the Secretary September 30, 1903.

By Mr. Starr:

We move to strike out the statement for the reason that it was not shown that the testimony of the witness on a material point in that case was erroneous for the reason that the Department might have rejected the applicant in that case because the applicant did not comply with one of the provisions of the treaty and the witness might have testified in that case to a material point that was true.

By the Commissioner:

Motion made by the Attorney for the applicants will be noted and the record will be allowed to stand as it is.

By Mr. Hastings:

- Q Are you the same Sam Webber that testified in the case of Abraham Ward, F.D. No. 607? A Yes sir.

Attention is invited to the fact that the rejection of Abraham Ward was affirmed by the Department April 29, 1904.

By Mr. Starr:

Applicants moved to strike out the question and answer and notation for the reason that the mere fact that the Department rejected the applicant, Abraham Ward, is not testimony to show that the evidence of the witness at that time was erroneous for the reason that Abraham Ward might have made a trip to the Cherokee Nation in the Fall of 1866, and have been seen by this witness and yet might not have moved with his family and effects until later.

By the Commissioner:

Motion made by the Attorney for the applicants will be noted. The record will be allowed to stand as it is.

By Mr. Hastings:

- Q You testified in the Abraham Ward case didn't you on June 8, 1901, the same day you testified in this case at Chelsea? A Yes sir.
- Q You testified in that case that Abraham Ward came down with Peter Ward and that they moved with their families and located near you? A Yes sir.
- Q Then you testified in that case as to the date of the return of the family didn't you? A Yes sir.
- Q Are you the same Sam Webber that testified in the case of Malindy Webber, F.D. No. 609? A Yes sir.

Attention is called to the fact that the rejection of the same Malindy Webber was affirmed by the Secretary October 16, 1905.

By Mr. Starr:

Applicants moved to strike the question and answer and notation from the record because the mere fact that this Malindy Webber was rejected by the Department does

not in any way tend to contradict this witness. His testimony in this case may have been on some one material point and the action of the Department might have been based on some other material point in the case, because there are several requirements in the Treaty of July 19, 1866, and it is essential to show that the applicant for enrollment was the slave of a Cherokee citizen at the commencement of the war of the Rebellion and that if they went out of the Cherokee Nation that they returned to the Cherokee Nation and established their residence there prior to February 11, 1867, and it is true that an applicant for enrollment could have been seen in the Cherokee Nation in the Fall of 1866, and still not have in good faith established their residence in the Cherokee Nation in time to have entitled them to enrollment as Cherokee freedmen, for that reason we contend the question ~~WAS~~ is incompetent, irrelevant and immaterial, and that the notation should not be made in this reference.

By the Commissioner:

Motion made by the Attorney for the applicants will be noted. The record will be allowed to stand.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the Lizzie Starr case, F.D. No. 620? A Yes sir.

Attention is invited to the fact that the rejection of the said Lizzie Starr was affirmed April 25, 1906,

By Mr. Starr:

I desire to make the same motion as herein above made.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in a case of Francis Anderson? A Yes sir.

Attention is invited to the fact that the rejection of the said Francis Anderson was affirmed by the Secretary of the Interior on April 25, 1906.

By Mr. Starr:

(12)

I desire to make the same motion.

By Mr. Hastings:

- Q Is there a single one of these cases that I have inquired of you so far that you didn't testify as to the return? You testify as to the return of all of them? A Yes sir, that's right.
- Q Are you the same Sam Webber that testified in the case of Santa Anna Nivins F.D. No. 802? A Yes sir.
- Q You testified as to his return also? A Yes sir.

Attention is invited to the fact that his rejection was affirmed by the Secretary of the Interior June 26, 1906.

Mr Starr:

I make the same motion.

By Mr. Hastings:

- Q Are you the same Sam Webber that testified in the case of David Ross F.D. 799? A Yes sir.
- Q You testified as to his return? A Yes sir.

Attention is invited to the fact that the rejection of the said David Ross was affirmed by the Secretary of the Interior August 31, 1904.

By Mr. Starr:

I move to strike out the question and answer and notation for the reasons herein above given.

By Mr. Hastings:

- Q Are you the same Sam Webber that testified in the case of Marie Reynolds F.D. No. 802? A Yes sir.
- Q You testified as to her return? A Yes sir, because she had some right in that crowd; I just had to testify for that woman if she did lose out.

(13)

Attention is called to the affirmance of her rejection by the Secretary of the Interior on September 10, 1904.

By Mr. Starr:

We object to this question and answer and move to strike it from the record for the reasons herein above given and for the reason that it is not shown on what grounds the applicant in that case was rejected.

By the Commissioner:

Motion by the Attorney for the applicants will be noted. The record will stand as it is.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case that Martha Phillips F.D. No. 852? A Yes sir.

Attention is invited to the fact that her rejection was affirmed by the Secretary of the Interior May 24, 1906.

Mr. Mr. Starr:

We make the same objection to this question and answer as to the others.

By The Commissioner:

Subject to the same objection by the Attorney for the applicants the record will be allowed to stand.

By Mr. Hastings:

Q Are you the same Sam Webber who testified in the case of Rebecca Webber whose mother was Jeptha Holt F. D. No. 853? A Yes sir.

Attention is invited to the fact that her rejection was affirmed by the Secretary of the Interior June 25, 1906

By Mr. Starr:

We make the same motion as made herein before.

By the Commissioner:

Subject to the same motion made by the Attorney for the applicants, the record will be allowed to stand.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case of Elizabeth Duncan F.D. No. 871? A Yes sir.

Attention is invited to the fact that her rejection was refused by the Secretary of the Interior April 21, 1906.

By Mr. Starr:

The Attorney for the applicants reserve the right to enter an objection to all of this matter at the end of the cross examination.

By the Commissioner:

Statement by the Attorney for the applicants will be noted.

By Mr. Hastings:

Q Are you the same Sam Webber that testified in the case of Jefferson Ross F.D. No. 872? A Yes sir.

Attention is invited to the fact that his rejection was affirmed by the Secretary of the Interior October 6, 1904.

Q Are you the same Sam Webber that testified in a case of Elizabeth Tinnon F.D. No. 892? A Yes sir.

Attention is invited to the fact that her rejection was affirmed by the Secretary of the Interior April 21,

1906.

Q - Are you the same Sam Webber that testified in the case of Richard Towers F.D. 955? A Yes sir.

Attention is invited to the fact that his rejection was approved by the Secretary of the Interior September 24, 1904.

Q Are you the same Sam Webber that testified in the case of Nicholas Landrum F.D. No. 1008? A Yes sir.

Attention is invited to the fact that his rejection was affirmed by the Secretary of the Interior April 21, 1906.

Q Are you the same Sam Webber that testified in the case of George Tucker, F.D. No. 1013? A Yes sir.

Attention is invited to the fact that his rejection was affirmed by the Secretary of the Interior June 15, 1904.

Q Are you the same Sam Webber that testified in the case of Amanda Brown, F.D. No. 1015? A Yes sir.

Attention is invited to the fact that her rejection was affirmed by the Secretary of the Interior April 21, 1904.

Q You testified in the case of Betsy Reed, F.D. No. 1093? A Yes sir.

Attention is called to the fact that her rejection was affirmed by the Secretary of the Interior June 24, 1904.

Q Are you the same Sam Webber that testified in the case of Bertha Glass, F.D. No. 1099? A Yes sir.

Attention is invited to the fact that her rejection was affirmed by the Secretary of the Interior June 25, 1906.

By Mr. Starr:

Comes now the applicant and moves to strike from the record all of the questions and answers and notations with reference to this witness appearing in various freedmen cases before the Commission to the Five Civilized Tribes and the notation as to the decisions of the Department in said cases, for the reason that it is incompetent, irrelevant and immaterial and does not tend in any wise to discredit this witness for the reason that the Department may have based its decision upon one material point in this case and that the witness may have given his testimony as to some other material point in the case. While the witness may testify as to the return of some Cherokee freedmen applicant, the Department may have based its decision upon the ownership of the applicant in the case, and again, while the witness may have testified that he saw the applicants in the Cherokee Nation in 1866, yet they may not have been actual, personal, bona fide residents of the Cherokee Nation in good faith prior to February 11, 1867, and for these reasons, and because it is not shown that the testimony given by the witness is material in this case, we submit that it is incompetent, irrelevant and immaterial and that such questions and answers should be stricken from the record.

By Mr. Hastings:

In reply to the above by counsel for applicants in this case, we desire to state, first, that the witness has admitted that he is the identical person who testified in each of the cases referred to, and, second, he has now stated under oath that he testified as to the return of the applicants in each case. Therefore, he did testify upon a material point and we now charge and challenge the attorney for applicants in this case to show that it is not true that each decision in each of the cases referred to was adverse to the applicant because it was found in each decision that the applicant did not return to the Cherokee Nation within the time as prescribed by the treaty of 1866, and therefore not entitled to be enrolled. We now challenge the attorney for applicants to show that in a single one of these cases cited that that was not the finding of the Commission to the Five Civilized Tribes, as affirmed by the Secretary of the Interior; and in fur-

ther reply we state that the objection of the attorney for applicants is based upon speculation, because he uses the language that the decision might have been based upon certain grounds or it might have been based upon other grounds, whereas he does not assert that the decision in any one case was based upon either of the grounds that he bases his objection upon.

By the Commissioner:

The motion made by the attorney for the applicant and the answer thereto by the attorney for the Cherokee Nation, will be noted and the record will be allowed to stand as it is.

By Mr. Hastings:

- Q Did you testify as to the date of the return in all of these cases? A Yes sir.
- Q And you testified that they all returned in 1866? A Yes sir.
- Q Were you not at one time a member of a committee that represented Cherokee freedmen and that went from place to place and attended on sessions of the Commission to the Five Civilized Tribes? A Yes sir.
- Q Was George West Vann a member of that Committee? A No sir.

Witness dismissed

AMANDA HILL recalled:

By Mr. Starr:

- Q Were you old enough at the time of your father's marriage to his second wife to remember the occasion? A Yes sir.
- Q Where were you living at that time? A With my grandmother.
- Q How long did you live with her after he married? A I don't know--not very long---about a week---they took me and my sister down.
- Q Did you commence making your home with Johnson Webber and Frances Webber within a week after they were married? A Yes sir.
- Q Did you live with them until Frances died? A Yes sir.
- Q Were you living there at the time Andy Webber was born? A Yes sir.
- Q Was Andy Webber your half-brother? A Yes sir.
- Q You had the same father? A Yes sir.
- Q His name was Johnson Webber? A Yes sir.

Witness dismissed.

By Mr. Starr:

Applicants offer in evidence a certified copy of the marriage record of Lynn County, Kansas, showing that on the 31st day of December, 1864, Johnson Webber and Margaret Ward, both of Lynn County, Kansas, were married by Josiah Terrill, minister of the gospel.

By the Commissioner:

The instrument offered in evidence by the attorney for the applicants will be filed with and made a part of the record in this case.

SAM WEBBER recalled:

By Mr. Starr:

Q You were asked about refreshing your memory after seeing a marriage certificate; do you remember what statements you made before you saw this marriage certificate, as to the date of that marriage?

By Mr. Hastings:

Objected to by the attorney for the Cherokee Nation because the same will be irrelevant and immaterial and second, because it would be a declaration in his interest and third, because it would be hearsay.

By the Commissioner:

The objection will be noted.

Witness replies: Yes sir.

By Mr. Starr:

Q What statement did you make? A Said it was along in December 1864.

Q When did you first see this marriage certificate? A Since I come here.

Q After you examined the certificate did you find that your recollection and statement of it was corroborated by the certificate? A Yes sir.

By Mr. Hastings:

I object to that.

By the Commissioner:

Objection will be noted.

By Mr. Starr:

Applicants move that the records of the Cherokee Supreme Court of 1871, commonly known as the Daniels Court, be examined and a statement of the record showing the admission of Johnson Webber, the father of Amanda Hill, be made in this case.

By the Commissioner:

An examination of the record of doubtful cases for citizenship in the Cherokee Nation, tried in 1871 by the Supreme Court of the Cherokee Nation, commonly known as the Daniels Court, shows on page 28 of said record the following entry: "Johnson Webber, decided in favor of defendant June 6th, 1871."

By Mr. Hastings:

For the purpose of contradicting the witness's statement with reference to the trial before the Daniels Court, I desire to call attention to and have inserted in the record the following admissions by the Daniels Court:

John Rogers, decided in favor of the defendant June 7, 1871.

Allen Almstead, decided in favor of defendant, June 7, 1871

By Mr. Starr:

Objected to for the reason that these would not tend in any wise to contradict the witness for the reason that the witness has stated that he knew of certain decisions, and undertook to name them, and said if there were other decisions he did not know about them; that he does not know does not contradict him.

By Mr. Hastings:

It certainly does contradict this witness because the witness has testified positively that the court announced that it would hear no more freedman cases and told all freedman applicants to go home, whereas this record shows that the court continued to sit there from day to day and admit freedmen after June 6th, 1871.

By Mr. Starr:

That might be true; the court might have told the freedmen to go home that day and the very next day

begin to hear freedman cases and that it would in no wise tend to contradict this witness. Witness has stated that he does not know what occurred after he left there and there was no way for him to know about it if he was not there.

By the Commissioner:

The objection made by the attorney for the applicant, the answer thereto by the attorney for the Cherokee Nation and the reply of the attorney for the applicant will be noted.

By Mr. Hastings:

Eli Keys and his family, decided in favor of claimant June 13, 1871.
Jonas Keys, decided in favor of claimants June 13, 1871.
Hardy Thompson, decided in favor of defendant June 7, 1871.
Russell Vann and family, decided in favor of defendants June 7, 1871.
Feeling Evans and family, decided in favor of defendants June 7, 1871.
Josh Whitmire, decided in favor of defendant June 8, 1871.
~~Josh Whit~~
William Lynch and family, decided in favor of defendant June 8, 1871.
Delilah Vann and children, decided in favor of claimants June 9, 1871,
and others, without taking up the time to introduce them in the record.

By Mr. Starr:

The applicants move to strike from the record all of the references made by the attorney for the Cherokee Nation to decisions of this Daniels Court for the reason for the reason that the same in no wise contradict this witness, and they in no way show that the Johnson Webber admitted by the Daniels Court was not the father of this applicant, Amanda Hill. The attorney for the Cherokee Nation has not disputed the fact that the Johnson Webber admitted by this Daniels Court was the father of this applicant, Amanda Hill.

By Mr. Hastings:

The attorney for the Cherokee Nation has not been upon the stand in this case and he intends to reserve the right to file a brief in this case in which he desires

to set up the reason why he does not believe that these applicants are entitled to be enrolled as freedman citizens of the Cherokee Nation, but the attorney for the Cherokee Nation does think that it is material to introduce any testimony in this case which will tend to show that the witness, Sam Webber, who left the stand, is not a creditable witness.

By Mr. Starr:

Replying, we admit that the attorney for the Cherokee Nation has the right to file his brief at any time he so desires, but we contend that all of this proceeding with reference to other decisions of this Daniels Court does not contradict the testimony in this case given by the applicant and by the witness and as shown by the record that the Johnson Webber admitted by the Daniels Court was the father of this applicant.

By the Commissioner:

The motion made by the attorney for the applicant and the reply thereto by the attorney for the Cherokee Nation, the statement made by the attorney for the applicant in reply to the answer of the attorney for the Cherokee Nation, will be noted.

By Mr. Starr:

Comes now the applicant and moves that reference be made to Cherokee freedman enrollment case of Andy Webber, who is the half-brother of this applicant, and whose case was at one time consolidated with this case.

By Mr. Hastings:

Objected to, if it is meant by this motion or by this reference that the decision in the Andy Webber case is to affect decision in this case. They had separate mothers and the testimony in the Andy Webber case was taken at all times separate and apart from the testimony in this case, and when it was remanded it was set down separate and apart and testimony taken separate and apart from this case and we are going to object to clouding the record in this case by any reference to the Andy Webber case, or any introduction into it of the testimony taken in the Andy Webber case.

By the Commissioner:

The motion made by the attorney for the applicant and the answer by the attorney for the Cherokee Nation will be noted.

The attorney for the applicant and the attorney for the Cherokee Nation announce that they have no further testimony to introduce in this case; case will be closed and a decision rendered on the evidence heretofore introduced.

Olga Petroff, a stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the proceedings had in the above entitled cause and that the foregoing is a full, true and correct transcript of her stenographic notes thereof.

Olga Petroff

Subscribed and sworn to before me this 20th day of February, 1907.

Edward Merrick

Notary Public.

(COPY)

Records of the Marriages of Linn County, Kansas.

This is to certify that on the 31st day of December, 1864,
I joined in marriage Johnson Webber and Margaret Ward, both of
Linn County, Kansas.

Josiah Terrel.

Minister of the Gospel.

Filed and recorded March 27th A.D. 1865.

J. R. Vanzanett.

County Clerk Linn County.

)
State of Kansas) ss
Linn County)

I, W. E. McIntyre Probate Judge of Linn County Kansas,
do hereby certify that the above is a true complete and correct
copy of the Marriage certificate recorded in Marriage Record No
I at page 301 as the same appears of the records of this office.

In testimony whereof I have hereunto set my hand and affixed
the seal of the Probate Court of Linn County, Kansas, this the
16th day of February 1907.

(Signed) W. E. McIntyre.

SEAL

Probate Judge of Linn County, Kansas.

The undersigned, being first duly sworn, states that as
stenographer to the Commissioner to the Five Civilized Tribes, she
made the above copy, and that the same is a full, true and correct
copy of the instrument now on file in this office.

Mattie M. Price

Subscribed and sworn to before me this February 23, 1907.

Francis R. Lane
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Amanda Hill for the enrollment of herself and her three children as Cherokee freedmen.

Protest of the Cherokee Nation.

The record in this case shows that Amanda Hill appeared before the Commission to the Five Civilized Tribes at Chelsea, I. T., on June 8, 1901, and gave her age at that time as 29 and made application for the enrollment of herself and three children as follows, to-wit: Della Hill, age 11, Flossie Hill, age 9, and Sadie Hill, age 8 years.

It will be noted at that time no application was made for the enrollment of Alma, and the record does not show that any application at any subsequent time prior to this date was ever made for the enrollment of Alma Hill, and under Section 1 of the Act of April 26, 1906 (Public No. 129), which provides that "the Secretary of the Interior may enroll persons whose names appears upon any of the tribal rolls and for whom the records in charge of the Commissioner to the Five Civilized Tribes show application was made prior to December one, nineteen hundred and five, and which was not allowed solely because not made within the time prescribed by law."

This application made at this time cannot be received. It cannot be received as a newborn under Section 1, because applications under that Section had to be made within 90 days after the approval of the Act, and that would have been within 90 days after April 26, 1906. Therefore, under no theory of this case would Alma Hill be entitled to enrollment.

The principal applicant, Amanda Hill, gave her father's name as Johnson Webber, and her mother's name as Margaret webber, whose maiden name was Margaret Ward, and she stated that her maternal grandparents were Peter Ward and Louisa Ward.

To support her application on June 8, 1901, Abraham Ward was called

as a witness to testify on behalf of the applicant Amanda Hill and he testified that his father's name was Peter Ward and his mother, Louisa, and that Amanda Hill's mother, Margaret Webber, was a full sister of his and during the course of the examination he was asked these questions (referring to the mother of the applicant, Margaret Webber):

"Q. Who did she return to the Cherokee Nation with after the war?
A. With me and Johnson Webber and my father."

And later on upon cross-examination he was asked with reference to Margaret Webber:

"Q. Where did she marry Johnson Webber? A. In Kansas."

On re-direct examination he was asked:

"Q. Johnson Webber was the husband of this child's mother? A. Yes sir."
"Q. And she was your sister? A. Yes sir."
"Q. He returned with his wife, the mother of this girl---together, they returned together to this country after the war with you and your family?"
A. Yes sir."

The next witness called to the stand on behalf of applicant was Sam Webber, and upon cross-examination he was asked:

"Q. When did Johnson Webber come back to the Cherokee Nation after the war? A. With the Ward family."
"Q. Did he come with Abraham Ward? A. Yes sir."
"Q. You testified in his case this morning didn't you? A. Yes sir."
"Q. Where did he marry Margaret Ward? A. In Kansas."
"Q. Did she come with him down here? A. Yes sir."

Now the testimony in this case is clear and conclusive that Johnson Webber and Margaret Ward were married in the State of Kansas, and the testimony is uncontradicted to the effect that they returned together and returned with the Ward family, the leading case of which is known as the Abraham Ward case, whose original card was P. O. 607.

The original card of Peter Ward, the father of Margaret Webber, was P. O. 613. In the case of Peter Ward and Abraham Ward, which are consolidated, the Commission to the Five Civilized Tribes rejected them on July 10, 1903, and this rejection was affirmed by the Secretary of the Interior on April 29, 1904. On June 25, 1906, a motion was filed to reopen and reconsider this consolidated case by Starr & Patten, who are the attorneys for the applicants in this case. The records further show that Starr & Patten on August 4, 1906, wrote a letter through the Commissioner to the Five Civilized Tribes, stating that no further

testimony could be secured as to the return of the Wards, confessing that their motion was without merit, and thereby confessing that the original decision of the Commission to the Five Civilized Tribes, which was affirmed by the Department on April 29, 1904, was correct, and the motion to reopen filed on June 25, 1906, by the said Starr & Patten was denied by the Department on February 4, 1907 (I.T.D. 1848-1907).

The testimony taken in the Ward case was made part of the record in this case and it is absolutely conclusive that the Wards did not return to the Cherokee Nation within the time prescribed by the treaty. The testimony of C. W. Kingsbury taken in 1901, was to the effect that he was then 47 years old, that his postoffice was Mound City, Linn County, Kansas; that his grandfather's name was Durbin, and that he knew the family of Wards intimately, and he gave the old man's name as Peter Ward, and he also gave the names of all of the boys, and he swears that in the spring of 1866 this family took a lease upon his grandfather's place for four years to clear up some timbered land, and he swears that he lived upon that place until 1869, when he left there, continuously, and he refreshes his memory by a stone barn being built upon his grand-father's place and the inscription over the door shows that it was built in 1868. There cannot be any question about the date when the Ward family returned to the Cherokee Nation and there can be no question whatever but that they came in 1869. Byron Osborn corroborated the testimony of Kingsbury as well as the other witnesses in the case.

Now the testimony of both uncles of the applicant, namely, Abraham Ward, her mother's brother, and Sam Webber, her father's brother, is to the effect that her parents came down to the Cherokee Nation with the Ward family and the Commission and the Secretary have found that the family did not return until 1869.

Again, to show that they did not return within the time prescribed by the treaty, it is asserted on behalf of the applicants that Johnson Webber returned with his wife and that they returned with the Ward family, whereas the Commission to the Five Civilized Tribes, and afterward the Commissioner to the Five Civilized Tribes, and the Secretary of the

Interior, have repeatedly held that no families returned to this section of the country, in Cooweescoowee District, where applicants claim to have returned, in 1866, and in support of this holding we desire to call attention of the Department to the case of Daniel Whitmire, F. D. 434, and to the Departmental letter overruling a motion to reopen this case, dated January 25, 1907 (I.T.D. 24822-1906); also to the case of Luella Snayden, F. D. 997, and to the Departmental letter denying a motion to reopen the case on January 29, 1907 (I.T.D. 1352-1907). The Commissioner to the Five Civilized Tribes and the Secretary of the Interior held to like effect in the George Velje case, F. D. 394, and also in the Edward Derrick case, F. D. 818. In all of these cases it was held that none of the Webbers, Sanders' or Velje' brought their families to the Cherokee Nation prior to the first of March, 1867, and the record in this case shows that Johnson Webber did not come to the Cherokee Nation until he came with his wife's family of people.

On the other hand it is going to be insisted that Johnson Webber was admitted by the Supreme Court of the Cherokee Nation on June 6, 1871, by the Court commonly known as the Daniels Court. In the first place, there is not sufficient testimony in this case to show that the Johnson Webber who is the father of Amanda Hill was the person admitted. It is true Sam Webber swears it, but he is the only witness that does swear it in this case, and we have referred to perhaps 20 or 25 cases and cited them in the record, where this same Sam Webber has been a standing witness and where he has testified for these cases, and where his testimony has been ignored by the Commissioner to the Five Civilized Tribes and by the Secretary. The records show, and he admits, that he was a witness following the Commission from place to place to testify in cases; in other words, a standing witness. The Commissioner to the Five Civilized Tribes so recognizes him. He is contradicted and impeached in all of these cases, because he admits that he testified as to the return of all of them, and when the Department denied them by the decision in each case, it said that he was unworthy of belief. Again this same Sam Webber in

testified in the Andy Webber case, and he testified in this case that only five families were admitted; himself, brother and father, Harry Still and Charley Chamber- Campbell, and then they were told to go home. Now he could not have sworn the truth under any circumstances, because the records show that a great number of other people were admitted and admitted upon the same day and the day following the day that he was admitted, and the records show that Harry Still was not admitted until June 8, 1871, and that he was admitted on June 6, 1871, and that a number were admitted in between the two, on June 7th, and yet this disreputable witness attempts to say that only five families were admitted and they were told to go home that they would not hear any more freedmen cases. He is completely contradicted by the record. We submit that his testimony ought to be entirely set aside in this case to the effect that Johnson Webber went there and applied to be enrolled as a freedman citizen. The name Johnson Webber is a common name; there were a great number of Webbers throughout the Cherokee Nation many of whom have been rejected and others enrolled, and we submit that there is not sufficient testimony in this case to show that this is the identical Johnson Webber that was admitted.

Upon the other hand, suppose it is admitted that this Johnson Webber was admitted, and that he is the identical person, yet we want to invite the attention of the Department to the fact that the Department has thus far refused to reopen the case of Houston West, et al., F. D. 989, although a lengthy decision was written by the Chambers Court on June 12, 1878, denying the West case, the principal applicant being Henry West, wherein the court found that Walker Mayfield did not return with his slaves, the Wests, until April 4, 1867. We submit that if the Department is not going to give the Cherokee Nation the benefit of a rejection, then it ought not to hold the Cherokee Nation bound by the admission of Johnson Webber, if it is clearly shown in the testimony that Johnson Webber was not entitled to be enrolled under the 9th Article of the treaty of 1866, and the testimony is so conclusive upon that proposition that we think there is no room to argue against it.

The Department has thus far declined to reopen the case of Eliza Gaines, F. D. 320, although that family, together with her mother, Mary Stover, was denied in a lengthy decision by the Cherokee courts.

We submit, therefore, that the testimony shows:

First, that Johnson Webber and Margaret Webber returned with Peter Ward and Abraham Ward and that they returned to the Cherokee Nation first in 1869.

Second, that Abraham Ward and Peter Ward have been rejected, and their rejection affirmed by the Secretary and the motion to reopen their case has also been denied by the Secretary.

Third, that the testimony of a disreputable witness, Sam Webber, is insufficient to identify Johnson Webber as being the identical person admitted by the Cherokee Supreme Court in 1871.

Fourth, that the records showing the great number of cases testified in by the said Sam Webber upon the material point of the return of applicants are sufficient to discredit him completely before the Commissioner to the Five Civilized Tribes.

Fifth, the decision of the Department in the cases of Daniel Whitmire, F. D. 434, Luella Snayden, F. D. 997, and others referred to herein, show that no families returned to that section of the country in 1866 or before March 1, 1867.

Sixth, that, granted, that Johnson Webber was admitted on June 6, 1871, if the Department declines to hold that a rejection is binding as against the applicant, an admission ought not to be held as binding against the Cherokee Nation.

Seventh, the records show that no application up to the present time was ever made for the enrollment of Alma Will, and she cannot be enrolled under any theory.

Respectfully submitted,

1871
Attorney for the Cherokee Nation.

DEPARTMENT OF THE INTERIOR,
Commissioner to the Five Civilized Tribes.

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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Amanda Hill,
et al., as Cherokee freedmen.

Supplemental Brief and Motion of Cherokee Nation.

We have heretofore briefed this case and we think conclusively shown that Johnson Webber, the alleged father of the applicant, and the person through whom the applicant claims, did not return to the Cherokee Nation within the time prescribed by the treaty.

An examination of the Chambers Citizenship Court Docket, a court authorized and appointed to hear and determine citizenship cases in the Cherokee Nation in 1878 and 1879, shows that Johnson Webber was summoned to appear before the Court and rejected, and we respectfully move the Commissioner to the Five Civilized Tribes that an order be made making this a part of the record in this case.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

H. M. S.

Muskogee, I. T., Feb. 23, 1907.

Department of the Interior,
Commissioner to the Five Civilized Tribes.

In the matter of the application of *Amanda Hill et al*
for enrollment as citizens of the Cherokee Nation.

United States of America,)
Indian Territory,) ss. Affidavit to Show Service.
Western District.)

This day personally appeared before me the undersigned a Notary
Public within and for the Western District of Indian Territory, H. M.
Vance, who being by me first duly sworn on oath states, that his age is
twenty-seven years and that his postoffice is Muskogee, Indian Territory,
and that on the 23 day of *February*, 1907, he deposited in the United
States postoffice at Muskogee, I. T., an envelope containing a true copy
of the instrument hereto attached and he hereto attaches the receipt of
the postmaster at said postoffice showing that he received said package
to be duly registered and mailed to *Stars + Patten, Vinita, I. T.*

H. M. Vance

Subscribed and sworn to before me this 23 day of *February*, 1907.

Edward Miller
Notary public

My commission expires January 8, 1910.

Letter No.

Received for registration

addressed to

Muskogee, Ind. T.

1907

from

Postmaster, per

DEPARTMENT OF THE INTERIOR,
Commissioner to the Five Civilized Tribes

In the matter of the application for the enrollment of Amanda Hill et al as Cherokee Freedmen.

Reply to Brief of the Cherokee Nation.

The Record herein, and Departmental Letter of February 6, 1907 (ITD875-1905-1033-1907 and 1870-1907) shows that on January 12th 1907 the Honorable Commissioner to the Five Civilized Tribes rendered his decision of that date in the matter of the application for the enrollment of Andy Webber as a Cherokee Freedman, holding that the said Andy Webber was entitled to be enrolled as a Cherokee Freedman and that as stated in said Departmental Letter the said Andy Webber was "a party applicant in the Cherokee Freedman case of Amanda Hill et al." Said Departmental Letter further shows that the Indian office on January 28th 1907 (Land 4937) concurred in Commissioner Bixby's Decision and recommended the approval of said decision.

In affirming Commissioner Bixby's decision in the Andy Webber case the Department said:

"From the reasons set forth in your decision it is apparent that Andy Webber is entitled to be enrolled as a Cherokee Freedman. Authority is hereby granted for the enrollment of said applicant."

"In Connection with this case the Department is in receipt of a communication from the Attorneys for Amanda Hill et al, in reference to the motion for rehearing filed heretofore" et c etc The Department then further stated in said letter as follows:

"As it now seems to be shown by the record that said Amanda Hill is a half sister of Andy Webber and a daughter of Johnson Webber, who was admitted to citizenship in the Cherokee Nation by the Daniels court on June 6, 1871, it would appear that said Amanda Hill and her descendants may be entitled to enrollment as Cherokee Freedmen. In view of these facts the motion for rehearing as regards Amanda Hill, and her descendants is hereby granted."

When this case was remanded the Department had before it the record of the proceedings in the case of Andy Webber who was also a son of Johnson Webber and that record shows conclusively that Amanda Hill is a daughter of Johnson Webber by his first wife Margaret Ward; that after the death of Margaret ward Johnson Webber married Frances Sanders and that said Frances Sanders is the mother of Andy Webber, thus it appears from

the record in the Andy Webber case that while Andy Webber and Amanda Hill have different mothers they are both the children of Johnson Webber who was admitted by the Daniels court in 1871.

The record shows, in this case, that the principal applicant Amanda Hill appeared before the Commission to the Five Civilized Tribes on June 8th 1901, and made application for the enrollment of herself and her three minor children Della, Flossie, and Sadie Hill, and that said Amanda Hill further contends that at the same time she applied for the enrollment of her youngest child Alma Hill, a girl who was born August 7th 1895, but the name of the latter doesnot appear upon the card with the mother and the other three children.

The record shows conclusively that the father of said Amanda Hill the mother of the other applicants herein, was one Johnson Webber, and that her mothers name was Margaret ~~Webber~~ Webber, formerly Margaret Ward and that the applicants herein claim their right to be enroled as Cherokee Freedmen as descendants of the said Johnson Webber.

The marriage certificate introduced in this case, as evidence, shows for itself, beyong question that said Margaret Webber and Johnson Webber, parents of Amanda Hill, were lawfully married in the State of Kansas on December 31, 1864 and the testimony shows that Amanda Hill is the daughter of Johnson Webber and Margaret Webber, and it is conclusive under the testimony in this case, that Amanda Hill, the principal applicant herein, is the leggitimate descendant of the said Johnson Webber, named in the marriage certificate.

The testimony further shows, that Amanda Hill was born on Big Creek in the Cherokee Nation Indian Territory in the fall of 1867 and that she has lived in the Cherokee Nation continuously all of her life and is now living in the Cherokee Nation.

The testimony in this case further shows that Johnson Webber, the father of said Amanda Hill, after a trial in his case before the Supreme court of the Cherokee Nation, commonly known as the Daniels court, in 1871, after he had had a fair trial and introduced testimony in his case he was found to have returned to the Cherokee Nation and established

a residence herein before February 11, 1867, and that said Court admitted said Johnson Webber to all the rights of Cherokee Citizenship, upon which it had jurisdiction to act.

Prior to the rehearing in this case, considerable testimony had been introduced herein, which was conflicting, some of the witnesses contending that said Johnson Webber did not return to the Cherokee Nation within the time fixed in the Treaty of July 19, 1866, and some of the witnesses just as positively contending that he did comply with the terms of that treaty, relative to the time fixed therein for the return of Cherokee Freedmen to the Cherokee Nation.

As opposed to the conflicting condition of the record in this case, upon the late rehearing had herein it was positively shown upon behalf of the applicants herein, by their witness, Sam Webber, that said Johnson Webber did return to the Cherokee Nation and establish a residence therein before February 11, 1867, and that this same Johnson Webber, who was the father of the principal applicant, Amanda Hill, was the same Johnson Webber, who appeared before the Daniels Court in 1871, and that he did get a trial before that tribunal in his citizenship case, and the record of that Court shows, that the result of that trial and investigation was that that tribunal found that said Johnson Webber was entitled to be enrollment as a Freedman citizen of the Cherokee Nation.

It is contended ~~that~~ by the Attorney for the Cherokee Nation in his protest herein, to the Decision of the Commissioner that the Johnson Webber, who was the father of the applicant, Amanda Hill, is not sufficiently shown by the evidence in this case to be the same Johnson Webber who was admitted by the Daniels Court. That this argument is not tenable, and that the evidence in this case shows beyond any question whatever that the father of this applicant, the said Johnson Webber was the same party who was admitted by the Supreme Court of the Cherokee Nation in 1871, we believe is so fully and conclusively shown, as to render even a reply to such an argument, unnecessary.

We respectfully submit, that the fact that Johnson Webber, the father of the principal applicant in this case was admitted by the Daniels Court in 1871, and in the face of the fact that the evidence in this case shows that said admission by the Court was based upon evidence then

before it, is sufficient to show that Johnson Webber, the father of said Amanda Hill did return to the Cherokee Nation and establish a residence herein in good faith within the time fixed in the treaty of July 18, 1866 and that under this showing, that the applicants in this case, all of ~~whom~~ whose claim their rights to be enrolled as Cherokee Freedmen as descendants of said Johnson Webber, are entitled to enrollment, unless the Cherokee Nation is able to show, that the judgment of the Supreme Court of the Cherokee Nation, admitting said Johnson Webber to all the rights of Cherokee citizenship, was tainted with fraud, or was rendered without any evidence having been brought before that Court.

The Cherokee Nation, in this case, and upon this rehearing did not even attempt to question the integrity of that Court, in no way attempted to attack said judgment, and did not even introduce a single witness to contradict the witness, Sam Webber, whose testimony shows, that not only did Johnson Webber return to the Cherokee Nation before February 11, 1867 but that this same Johnson Webber appeared before the Daniels Court in 1871, and is the same person who was admitted by that Court, and is the same person who is the father of Amanda Hill, the principal applicant in this case.

We contend that if the Cherokee Nation questioned the correctness of the decision of the Daniels Court which found that Johnson Webber did return to the Cherokee Nation before February 11, 1867, and that if the Cherokee Nation questioned his trial before that tribunal, or questioned the fact that the Johnson Webber admitted by the Supreme Court of the Cherokee Nation was the father of Amanda Hill, then we contend that after we had conclusively proven these facts, that if the Nation doubted a single fact above set forth, that it was the duty of the Nation to introduce testimony in support of their contention. The record in this case shows that not a single witness was introduced on behalf of the Cherokee Nation in this rehearing.

We desire to further call attention to the fact that the testimony in this case shows that Amanda Hill, the principal applicant herein, is a half sister of one Andy Webber; that ~~the~~ Johnson Webber, who was admitted by the Daniels Court was the father of said Andy Webber and said Amanda Hill, and that in the case of Andy Webber, the Honorable Commissioner to

the Five Civilized Tribes , in his decision dated January 12, 1907, in the case of Andy Webber who claimed his rights to be enrolled as a Cherokee Freedman identically in the same manner as do the applicants in this case, to-wit, as a descendant of said Johnson Webber, that in the case of said Andy Webber the Commissioner found that ~~askixux~~ he was entitled to be enrolled as a Freedman citizen of the Cherokee Nation, and that said decision of the Commissioner was affirmed by the Honorable Secretary of the Interior , and there is no question but that Amanda Hill and her children possess the same right to enrollment that Andy Webber Possesses. The Commissioner and the Department having determined that Andy Webber was entitled to be enrolled as a Cherokee Freedman because he was a descendant of Johnson Webber, we submit therefore that Amanda Hill is shown to be a daughter of Johnson Webber and if Andy Webber was enrolled because he was a son of Johnson Webber we contend that Amanda Hill ought to be enrolled because she is a daughter of the same Johnson Webber.

We do not consider the argument of the Attorney for the Cherokee Nation that the testimony does not show sufficiently that Amanda Hill is the daughter of Johnson Webber, in face of the record in this case and in face of the testimony taken in the Andy Webber branch of this case which was before the Department when it remanded this case, of sufficient importance to need a reply from us.

In his letter of February 12th 1907 Commissioner Bixby sent us a telegram as follows:

"Freedman case of Amanda Hill remanded Sixth. Appear with Witnesses Tuesday Nineteenth, to show paternity of applicants."

and also stated as follows:

"The Principal applicant in this case, Amanda Hill, has been this day notified that she will be permitted to appear with witnesses, before the Commissioner, on Tuesday February 19, 1907, and introduce testimony as to the marriage of her parents."

And in compliance with this letter and telegram we appeared on the date indicated and introduced a witness Sam Webber by whom we showed that Johnson Webber returned to the Cherokee Nation and established his residence prior to February 11 1867, that he was married at Mound City Kansas to Margaret Ward and that as a result of said marriage the applicant Amanda Hill was born to him on Big Creek in the fall of 1867 and that she has lived in the Cherokee Nation continuously all her life. That the Johnson Webber who appeared before the Daniels Court and had a trial

was the same Johnson Webber who was the father of the applicant. That Johnson Webber got a trial on the question of fact raised in his case and the panels Court, after hearing the testimony introduced, determined that question of fact in favor of the applicant, Johnson Webber.

It can not be said now that Sam Webber is mistaken when he swears that Johnson Webber returned within the time prescribed by the Treaty of 1866 for the ~~Cherokee~~ return of Cherokee Freedmen; while Mr Hastings tries to leave the impression that this witness is mistaken in his testimony in other cases about the return of other freedmen we say that this witness can not be impeached on this one question when he says Johnson Webber returned within the time prescribed by the Treaty because the Supreme Court of the Cherokee Nation, after a fair and full hearing upon this question of fact entered up a judgment against the Cherokee Nation and in favor of Johnson Webber thus corroborating Sam Webber and showing that at that time the court after a trial of the case determined the question of fact, the return of Johnson Webber, in favor of Johnson Webber.

Amanda Hill says she is a daughter of Johnson Webber, that she remembers when he half brother was born and that she was living with her father Johnson Webber at the time.

The marriage certificate introduced from the Officials records of Linn County Kansas shows conclusively that Johnson Webber and the mother of Amanda Hill were legally married at Mound City Kansas. We therefore submit that this record and the record heretofore made in the Andy Webber case which was before the Department when it remanded this case conclusively shows that Amanda Hill is the daughter of Johnson Webber who was the father of Andy Webber and the Commissioner and the Department having determined that Andy webber was entitled to be enrolled as a Cherokee Freedman we submit conclusively shows that Amanda Hill and her children are entitled to the same rights that it has been determined that Andy Webber is entitled to.

Alma Hill is a full sister of the other children of Amanda Hill and we submit that she ought to be enrolled with her sisters and with her Mother Amanda Hill.

Respectfully Submitted

Starr & Pullen

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DEPARTMENT OF THE INTERIOR
Commissioner to the Five Civilized Tribes

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DEPARTMENT OF THE INTERIOR, COMMISSIONER TO THE
FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Amanda Hill
et al as Cherokee Freedmen.

Reply to supplemental brief and motion of Cherokee Nation.

There has been served upon us by registered mail a copy of what is called a "Supplemental Brief and Motion of Cherokee Nation" in this case wherein The attorney for the Cherokee Nation says:

"An examination of the Chambers Citizenship Court Docket, a Court authorized and appointed to hear and determine citizenship cases in the Cherokee Nation in 1878 and 1879, shows that Johnson Webber was summoned to appear before that Court and rejected and we respectfully move the Commissioner to the Five Civilized Tribes that an order be made making this a part of the record in this case."

On yesterday February 25, 1907 we examined this record referred to and find the entry referred to by the attorney for the Cherokee Nation, on page 59 of said record and it reads as follows:

" 91. Johnson Webber

vs.

Cherokee Nation

Ex. 12th June

20th Aug. Judgt. by default. "

From all that this record shows, it is apparent that Johnson Webber was the plaintiff in that action. From the style of any cause that we have ever seen, and we believe that from the style of any cause that the Hon. Commissioner ever saw, that it cannot be doubted that the plaintiff in that action before the Chambers Commission on Citizenship, was beyond a question, Johnson Webber. That being the case the judgment itself shows that that case was decided by default in favor of Johnson Webber. Under every system of pleading known in law, a default judgment can only be taken against the defendant, and in this case the record shows, it was the Cherokee Nation. If Johnson Webber, being the plaintiff in that cause had failed to appear and prosecute his claim, certainly the Court would have dismissed that action against the plaintiff and found in favor of the defendant, the Cherokee Nation for want of prosecution. We submit that the record of this court itself shows conclusively that Johnson Webber must have appeared before that Court and submitted some evidence, and that the Cherokee Nation, not only did not submit any evidence whatever, but even failed to appear. otherwise how could that Court have rendered a

judgment by default. If the Cherokee Nation had appeared in that action certainly that Court would not have defaulted that party. We respectfully submit that the fact that in 1878 and '79, when Johnson Webber appeared before the Chambers Court for a trial in his citizenship case, and at that time the Cherokee Nation not only did not appear against him but did not even contest his claim, we submit that this is exceedingly strong evidence to support the conclusion that at that time the Cherokee Nation did not question the correctness of the Daniels Court, admitting Johnson Webber to all the rights of Cherokee Citizenship.

We have always contended that we did not believe that a default judgment was of any importance, as a circumstance tending to throw light upon a citizenship question at this late date, but we do respectfully submit that the fact that the record of the Chambers Court, defaulting the defendant, the Cherokee Nation, a few years after the Supreme Court of the Cherokee Nation had found the plaintiff entitled to be enrolled, is a very strong circumstance that at that time the Nation did not itself question the plaintiff's right to such enrollment, otherwise it would have appeared in that case before the Chambers Court, and submitted some evidence.

We did not know of this judgment existing until our attention was called to it by the attorney for the Cherokee Nation in his "supplemental brief and motion", otherwise we would ourselves have asked that it be made a party of the record in this case.

We desire to forcibly call attention to the fact, and desire that the Commissioner consider, how absolutely ungrounded and unwarranted from this record, was the statement of the attorney for the Cherokee Nation, as to what this record showed, as we have above quoted from his "Supplemental Brief and ~~argument~~ Motion of Cherokee Nation".

We respectfully ask, that the request of the attorney for the Cherokee Nation be granted, and that a true copy of all that the record of the Docket of the Chambers Court, shows in regard to the disposition of the Citizenship case of Johnson Webber, before that Court, be made a part of the record in this case.

Respectfully,

Star Patten
Attys for Cherokee Nation

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss.

Proof of Service.

J. C. Starr of lawful age, being duly sworn, says that he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered to W W Hastings, Attorney for the Cherokee Nation at Muskogee I T, as shown by the receipt of the postmaster hereto attached. Which said postoffice is shown ~~by the records of the Attorneys for the Cherokee Nation~~ to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this

25th

day of February 1907.

Commission Expires Dec. 4, 1909

J C Starr
C. M. Mull

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Amanda Hill, et al., as Cherokee freedmen.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That application was made to the Commission to the Five Civilized Tribes by Amanda Hill for herself and minor children, Della, Flossie and Sadie Hill as Cherokee freedmen. The records further show that the Commission to the Five Civilized Tribes consolidated the cases of Amanda Hill et al., Cherokee freedmen R 678 (F.D.625) with that of Andy Webber Cherokee freedman R 283 (F.D.959), and on July 23, 1904, rendered its decision herein denying all the applicants in said cases the right to enrollment as Cherokee freedmen, which decision was on September 30, 1904 (I.T.D.7582-04) duly approved by the Department; that thereafter on February 6, 1907, (I.T.D.875-05, 1033, 1270-07) motions to reopen and remand the case of Amanda Hill, et al., having been filed with the Department, the Secretary of the Interior remanded said case to this office for further hearing and readjudication. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, February 19, 1907.

THE EVIDENCE IN THIS CASE SHOWS: That the principal applicant herein, Amanda Hill, was born in the Cherokee Nation since 1866, and has continuously resided in said Nation since birth; that she is a daughter of Johnson Webber and Margaret Webber, both deceased, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, and claims the right to enrollment as a Cherokee freedman as a descendant of her said parents. The evidence further shows that Johnson Webber, father of the said Amanda Hill, made application for admission to freedman citizenship in the Cherokee Nation to the Supreme Court of said Nation, commonly known as the "Daniels Court" in 1871, and was adjudged by said Court entitled to Cherokee freedman citizenship. The Honorable Frank L. Campbell, Assistant Attorney General in his decision rendered October 5, 1905 (I.T.D.7658-04) in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, held as follows:

"The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication

of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat. 321-339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appears that fraud was practiced upon the court, or that the evidence then before the court, and that now available before the Commission shows that the conclusion of the court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by a lapse of more than thirty years."

It is considered by this office that the evidence in this case fails to show that the decision of the "Daniels Court" adjudging said Johnson Webber entitled to freedman citizenship in the Cherokee Nation, was vitiated by "fraud," or that it on account of "lack of evidence then available was clearly wrong," and that following the rulings of the Department in the cases of Harry Still (I.T.D. 7658-04, 13208-05, 23962-06), John and Cynthia Morgan (I.T.D. 7235-05, 8896-05, 10716-05), Amos Adair, et al., (I.T.D. 15372-06), and Andy Webber (I.T.D. 875-05, 1033, 1817-07), Amanda Hill is entitled to enrollment as a Cherokee freedman as a descendant of the said Johnson Webber.

The evidence further shows that the principal applicant herein, Amanda Hill, is a half sister to the said Andy Webber, who is a son of the said Johnson Webber, and who acquired the right to enrollment as a Cherokee freedman solely as a descendant of his said father. It is further shown that the minor applicants herein, Della, Flossie and Sadie Hill, are children of the said Amanda Hill, and one George Hill, a non citizen of the Cherokee Nation; that they were born in the Cherokee Nation, have continuously resided therein since birth, and possess the same right to enrollment as Cherokee freedmen possessed by their said mother.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That in accordance with the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stat. 495), Amanda Hill, Della Hill, Flossie Hill and Sadie Hill are entitled to enrollment as Cherokee freedmen, and their application for enrollment as such is accordingly granted.



Commissioner

Dated at Muskogee, Indian Territory,

this 2061 87 833 FEB 28 1907.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of AMANDA HILL,
ET AL., as Cherokee Freedmen, C. F. R. 678.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and respectfully protests against the decision of the Commissioner to the Five Civilized Tribes in the above case, for the reasons more particularly set forth in our brief and supplemental brief heretofore filed with the commissioner to the Five Civilized Tribes in which it was contended:

First, that the testimony clearly and conclusively shows that Johnson Webber and his wife, who returned with the Ward family, did not return within the time prescribed by the treaty and has been so decided by the Commissioner to the Five Civilized Tribes and this decision was affirmed by the Secretary of the Interior, and a motion to reopen that case, namely, the Abraham Ward case, which is on Freedmen Doubtful Card No. 307, has been denied by the department, and in fact the attorneys for them, who are the attorneys in this case, withdrew their motion to reopen said case sometime ago and practically conceded that the Wards did not return within the time prescribed by the treaty of 1866.

is
Second, this applicant admitted because of the fact that the Daniels Court admitted one Johnson Webber, whereas we have shown in our supplemental brief and the records in the office of the Commissioner to the Five Civilized Tribes, found subsequent to the trial of this case, show that Johnson Webber was denied by the Chambers Court in 1878, which was subsequent to his admission by the Daniels Court, and the last decision should be the controlling one. We have two decision, one admitting and the last rejecting, and then if the testimony conclusively shows that he was not entitled, then we insist that this applicant should be rejected.

It is not sufficient to say that Andy Webber was admitted, provided it was not then found out that Johnson Webber did not return with the

Ward family, and it was not known during the trial of the Andy Webber case, neither did we know of the subsequent decision, namely, by the Chambers court in 1878.

For these reasons we submit that the applicant herein should not be enrolled.

Respectfully submitted,

W. W. Nash

Attorney for the Cherokee Nation.

Muskogee, I. T., Feb. 28, 1907.

25-178

DEPARTMENT OF THE INTERIOR,
Commissioner of the General Land Office.

RECEIVED

FEB 28 1907

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

CHIEF CLERK,

CHEROKEE LAND OFFICE.

DEAR SIR:

The records of this office show *Della Hill and*
Mossie Hill

listed on Cherokee card No. *JS 125 (R 678)*

to be prima facie entitled to enrollment as *Indian* of the Cherokee Nation for the following reason,

viz: *Their mother & as Cherokee Indians was*
declared by Secy of Interior March 4 1907

Respectfully,

Commissioner.

Dated

March 11, 1907

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Amanda Hill,
Vinita, I. T.
Cherokee -F-D-625.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee Freedmen

D-625.

Muskogee, Indian Territory, July 28, 1904.

Amanda Hill,

Vinita, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, rejecting, among others, your application for the enrollment of yourself and your three minor children, Della, Flossie and Sadie Hill as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. S-147.

Register.

COPY.

Cherokee Freedmen

D-625.

Muskogee, Indian Territory, July 28, 1904.

Edgar Smith,

Attorney for Amanda Hill, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, rejecting, among others, the application of Amanda Hill for the enrollment of herself and her three minor children, Della, Flossie and Sadie Hill, as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

T. E. Needles.

Commissioner in Charge.

Encl. S-148.

Register.

COPY.

Cherokee Freedmen

D-959 D-625

Muskogee, Indian Territory, July 28, 1904.

Hastings, Bell & Davenport,
Attorneys for the Cherokee Nation,
Vinita, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes dated July 23, 1904, in the consolidated case of Amanda Hill, et al., rejecting the applications for the enrollment of Amanda, Della, Flossie and Sadie Hill and Andy Webber as Cherokee freedmen.

The decision, with the record of proceedings, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. 6-149.

COPY

Cherokee Freedmen

D-959 D-625.

Muskogee, Indian Territory, July 28, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the consolidated case of Amanda Hill, et al., including the Commission's decision dated July 23, 1904, rejecting the application for the enrollment of Amanda, Della, Flossie and Sadie Hill, and Andy Webber as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. S-150.

Through the

Commissioner of Indian Affairs.

(C O P Y)

DEPARTMENT OF THE INTERIOR,

Refer in reply to OFFICE OF INDIAN AFFAIRS,
the following:

WASHINGTON, September 17, 1904.

Land

52172-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated July 28, 1904, transmitting the consolidated applications for enrollment as Cherokee freedmen by Amanda Hill for herself and her minor children, Della, Flossie and Sadie Hill and by Andy Webber for himself.

July 23, 1904, the Commission decided adversely to the applicants.

The evidence shows that the applicants, Amanda, Della, Flossie and Sadie Hill, were born since 1866, and are the descendants of Johnson Webber and Margaret Ward; that Andy Webber was born since 1866, and is a descendant of Johnson Webber and Frances Webber; that it does not appear that Frances Webber was the slave of a Cherokee citizen or a free colored person residing in the Cherokee Nation at the beginning of the war of the rebellion. It is shown that Johnson Webber and Margaret Ward were slaves of Cherokee citizens at the beginning of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return

thereto on or before February 11, 1867; that the names of all the applicants are identified on the Kern-Clifton roll and that Andy Webber is also identified on the Wallace roll. None of the applicants is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tenner

Acting Commissioner.

M.M.M.
W.

(C O P Y)

W.C.F.
FHE.

DEPARTMENT OF THE INTERIOR,
D.C.37738-1904.
I.T.D.7582-1904 WASHINGTON. September 30, 1904.
J.P.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

July 28, 1904, you transmitted the record in the consolidated Cherokee freedman case of Amanda Hill, et al (F.D. -959, D-625), including your decision of July 23, 1904, rejecting the application for the enrollment of Amanda, Della, Flossie and Sadie Hill, and Andy Webber.

Reporting in the matter September 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) Thos Ryan,

Acting Secretary.

1 inclosure.

COPY.

Cherokee Freedmen
D-625

Muskogee, Indian Territory, October 25, 1904.

Amanda Hill,

Vinita, Indian Territory,

Dear Madam:

You are hereby advised that the Commission's decision dated July 23, 1904, rejecting, among others, the application for the enrollment of yourself and children, Della Hill, Flossie Hill and Sadie Hill, as Cherokee freedmen, was affirmed by the Secretary of the Interior on September 30, 1904.

Respectfully,

Tame Dixby
Chairman.

COPY.

Cherokee Freedmen
D--625

Muskogee, Indian Territory, October 25, 1904.

Edgar Smith,

Attorney for Amanda Hill, et al.,

Vinita, Indian Territory,

Dear Sir:

You are hereby advised that the Commission's decision dated July 23, 1904, rejecting, among others, the application for the enrollment of Amanda Hill and her children, Della, Flossie and Sadie Hill, as Cherokee freedmen, was affirmed by the Secretary of the Interior on September 30, 1904.

Respectfully,

Tamc Dixby.
Chairman.

COPY.

Cherokee Freedmen
D--625 et al

Muskogee, Indian Territory, October 25, 1904.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory,
Gentlemen:

You are hereby advised that the Commission's decision dated July 23, 1904, rejecting the application for the enrollment of Amanda Hill, Della Hill, Flossie Hill, Sadie Hill and Andy Webber, as Cherokee freedmen, was affirmed by the Secretary of the Interior on September 30, 1904.

Respectfully,

Tamie E. E. E.
Chairman.

(C O P Y)

D. C. 14596-1906

I.T.D. 875-1906

L R S

DEPARTMENT OF THE INTERIOR

WASHINGTON.

S S Jr
LLB

April 12, 1906

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory,

Sir:

Referring to departmental letter of September 30,
1904, you are advised that a motion for review has been filed
in the Cherokee freedman cases of Amanda Hill and Andy Webber.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos Ryan
First Assistant Secretary

Cherokee freedman
R 678

Muskogee, Indian Territory, May 28, 1906.

Amanda Hill,
vinita, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed
September 7, 1905, by your attorneys for review in your
Cherokee freedman enrollment case was dismissed by the
Department May 2, 1906.

Respectfully,

Commissioner.

MMP

Cherokee Freedmen
No 400, et al.

Muskogee, Indian Territory, May 28, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by attorneys for applicants in the Cherokee freedmen enrollment cases of Joseph Brown and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were denied by the Department in said letter.

Respectfully,

LMB

Commissioner

Cherokee Freedmen
R 400 et al.

Muskogee, Indian Territory, May 2, 1906

Blue & Bulger,

Attorneys for Joseph Brown, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by you, in the Cherokee Freedmen enrollment cases of Joseph Brown, and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were dismissed by the Department in said letter.

Respectfully,

LMB

Commissioner

Encl. B-93

(copy)

LAND
4937-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

On May 7, 1906 (I.T.D. 7582-1904, 1596-1905), the Department rescinded its decision of September 30, 1904, in the consolidated Cherokee freedmen case of Amanda Hill, et al., so far as it affected the application of Andy Webber, and remanded this case to the Commissioner to the Five Civilized Tribes for rehearing and readjudication.

I now have the honor to transmit herewith report of Commissioner Bixby, dated January 12, 1907, enclosing the record of proceedings had in the matter of the application for the enrollment of Andy Webber as a Cherokee freedman, including the decision of the Commissioner, dated January 12, 1907, granting the application.

The records show that Andy Webber appeared before the Commission to the Five Civilized Tribes, at Nowata, Indian Territory, on June 29, 1901, and made application for enrollment as a Cherokee freedman; that on July 23, 1904, the Commission to the five Civilized Tribes consolidated the Cherokee freedmen cases of Amanda Hill, et al., and Andy Webber, and rendered a decision therein

denying all the claimants the right to enrollment; and that on September 30, 1904 (I.T.D. 7582-1904), the decision of the Commission to the Five Civilized Tribes was approved by the Department. On May 7, 1906 (I.T.D. 7582-1904, 1596-1905), a motion to reverse the decision, so far as it denied Andy Webber the right to enrollment as a Cherokee freedman, having been filed with the department, the Department rescinded its decision of September 30, 1904, so far as it denied the right of Andy Webber to enrollment as a Cherokee freedman, and returned his case to the Commission to the Five Civilized Tribes, with instructions to permit the applicant and the attorney for the Cherokee Nation to furnish such testimony as they might desire to submit as to whether Frances Webber, the mother of Andy Webber, was a slave of a Cherokee citizen, and the date of her return to the Cherokee Nation. Further proceedings in the matter of the application of Andy Webber were had at Muskogee, Indian Territory, on June 21, November 22, and December 5, and 7, 1906.

Copies of the testimony of Dan Sanders and Reuben Sanders, taken in the Cherokee freedmen cases of Elizabeth Neigs, Chaney McNair, and Mary Johnson, and the application of Lewis Whitmire vs. the Cherokee Nation, taken before the "Chambers Court" on June 26, 1878, the application of Moses Whitmire vs. the Cherokee Nation, and also record No. 60, of Aaron Whitmire vs. the Cherokee Nation, are filed herewith and made a part of the record herein.

The evidence shows that the applicant, Andy Webber, was born in the Cherokee Nation since 1866, and is the son of Johnson Webber and Frances Webber, both now deceased, who were slaves of Cherokee citizens at the commencement of the war of the rebellion; that Andy Webber claims the right to enrollment as a Cherokee freedman as a descendant of his parents; and that Frances Webber left the Cherokee Nation during the progress of the rebellion, but the evidence does not establish that she returned to and established an actual, personal bona fide residence in the Cherokee Nation within the time provided by Section 3 of the Act of Congress approved April 26, 1906 (34 Stat.L., 137), for the return of freedmen to the Cherokee Nation.

The evidence introduced subsequent to the date of the decision of the Department of September 30, 1904 (I.T.D. 7582-1904), adverse to the applicant, shows that Johnson Webber, the father of Andy Webber, made application for admission to freedman citizenship in the Cherokee Nation to the Supreme Court of that Nation commonly known as the "Daniels Court", in 1871, and was adjudged by that Court entitled to freedman citizenship in the Cherokee Nation, and that the applicant now bases his right to enrollment on that decision.

The Assistant Attorney-General for the Department, in a decision rendered October 5, 1905 (I.T.D. 7658-1904), in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, held as follows:

"The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat. L., 321-339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appears that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years".

The evidence further shows that the applicant, Andy Webber, has resided continuously in the Cherokee Nation since birth, and Commissioner Bixby reports that he is identified on the Kern-Clifton and Wallace rolls of Cherokee freedmen.

In view of the decision in the Harry Still case, and for the reasons herein set out, the Office is of the opinion that under the provisions of Section 21, of the Act of Congress approved June 28, 1896 (30 Stat. L., 495), Andy Webber is entitled to enrollment as a Cherokee freedman. The Office therefore concurs in the recommendation of Commissioner Bixby that the application of Andy Webber for enrollment as a Cherokee freedman be granted.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

Muskogee, Indian Territory, January 29, 1907

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of September 30, 1904 (I.T.D. 7582-1904), affirming the decision of the Commission to the Five Civilized Tribes rejecting the applications for the enrollment of the applicants embraced in the consolidated Cherokee freedman case of Amanda Hill et al., there is transmitted herewith what appears to be a carbon of a motion for a reconsideration of the case of Amanda Hill and her children, Della, Flossie, and Sadie Hill. This motion was received January 17, 1907, from Starr & Patten, Vinita, Indian Territory, Attorneys for applicants.

Reference is made to Departmental letter of May 7, 1906 (I.T.D. 875-1596-1905), remanding to the Com-

Secretary-2

missioner for further hearing and readjudication, the case of Andy Webber, one of the applicants in the case of Amanda Hill et al. The decision of the Commissioner dated January 12, 1907, granting the application for the enrollment of Andy Webber as a Cherokee freedman was, on that date, forwarded to the Department.

Respectfully,

Through the Commissioner
of Indian Affairs.

Encl. B-72

Commissioner

(copy)

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 875-1906.
1033-1907.
1870- "

February 6, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 28, 1907 (Land 4937), the Indian Office transmitted your report dated January 12, 1907, in the matter of the application of Andy Webber, a party applicant in the Cherokee freedman case of Amanda Hill et al., together with your decision of January 12, 1907, granting the application of said Andy Webber.

The Indian Office concurs in your decision. A copy of its letter is inclosed.

From the reasons set forth in your decision it is apparent that Andy Webber is entitled to be enrolled as a Cherokee freedman. Authority is hereby granted for the enrollment of said applicant.

In connection with this case the Department is in receipt of a communication from the attorneys for Amanda Hill et al., in reference to the motion for rehearing filed heretofore.

It appears that on January 25, 1905, a motion for a rehearing

of the cases of Amanda Hill et al., and Andy Webber was filed with the Department.

On May 7, 1906, the Department considering that it was shown that its decision of September 30, 1904, in the case of Amanda Hill et al., in so far as it applied to Andy Webber, might be erroneous, rescinded that portion of said decision applying to Andy Webber and remanded the case for a further hearing.

It would appear that no action was taken by the Department on that portion of said motion applying to Amanda Hill and her descendants. As it now seems to be shown by the record that said Amanda Hill is a half-sister of Andy Webber and a daughter of Johnson Webber, who was admitted to citizenship in the Cherokee Nation by the Daniels court on June 6, 1871, it would appear that said Amanda Hill and her descendants may be entitled to enrollment as Cherokee freedmen.

In view of these facts the motion for rehearing as regards Amanda Hill and her descendants is hereby granted.

Departmental decision of September 30, 1904, referring to these applicants, is rescinded and you are directed to reopen said case and permit the applicant and the attorneys for the nation to submit such testimony as they may desire as to the right of said Amanda Hill and her children to enrollment as Cherokee freedmen.

The record is returned herewith.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner

of Indian Affairs.

2 inclosures.

D.C. 9100-1907.

JFJR

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I.T.D. 1033-1907.
1783- " "

FEBRUARY 9, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letter of February 6, 1907, remanding for a further consideration the application of Amanda Hill et al. for enrollment as Cherokee freedmen, there is inclosed to be filed with the papers in the case a reply to the argument of the attorney for the nation. There is also inclosed to be filed with the papers in the case a "Motion for the Department to take action upon a motion for review of decision and reconsideration of cases" in this case.

Respectfully,

(Signed) Thos Ryan

Through the Commissioner
of Indian Affairs.

First Assistant Secretary.

2 inclosures.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

23,000 OFFICES IN AMERICA. INCORPORATED CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Receiver's No.

Time Filed

Check

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

Muskogee, Indian Territory, February 12, 1907

Starr and Patten

Vinita, Indian Territory.

Breedman case of Amanda Hill remanded sixth. Appear with
witnesses Tuesday nineteenth to show paternity of applicant

PAID

BIXBY
Commissioner

READ THE NOTICE AND AGREEMENT ON BACK.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED
23,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Receiver's No.

Time Filed

Check

Cherokee Freedmen R 708

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

Muskogee, Indian Territory, February 12, 1907

Amanda Hill (Colored)

Vinita, Indian Territory

Your Cherokee freedman case remanded February sixth. Appear
before Commissioner with witnesses, Tuesday, nineteenth, to
establish marriage of your parents.

PAID

BY
Commissioner

READ THE NOTICE AND AGREEMENT ON BACK.

D.C. 9312-1907

GAW

Land.
4937-1907
10748- "
12499- "

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 14, 1907.

Commissioner to the Five Civilized Tribes.

Sir:

There is enclosed herewith, reply of the Cherokee Nation to the motion to reopen the Cherokee freedman enrollment case of Amanda Hill et al., filed by W. H. Hastings, attorney for the Nation, on February 2, 1907.

The Department granted the motion to reopen on February 6, 1907 (I.T.D. 875-1905; 1033-1890-1907) and the record was remanded to you on February 13, 1907. The motion is enclosed to be placed with the record.

Very respectfully,

(Signed)

Frank W. Conser

Chief Clerk

E.W.E. -NL

Cherokee
F.R.678.

COPY

Muskegee, Indian Territory, February 28, 1907.

Messrs. Starr & Patton,
Vinita, Indian Territory.

Gentlemen:

There is enclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting the application for the enrollment of Amanda Hill et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamie S. Patton*
Commissioner.

J.O.R.
Enc.L-4.

F.R.678
Cherokee

COPY

Muskegee, Indian Territory, February 28, 1907.

Amanda Hill,
Vinita, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting your application for the enrollment of yourself and your minor children, Della, Flossie and Sadie, as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

SIGNED *Thos. S. S.*
Commissioner.

J.O.R.
Enc.L-1.
Register.

Cherokee
P.M. 678

COPY

Muskegee, Indian Territory, February 28, 1907.

Hon. W. W. Hastings,
Attorney for the Cherokee Nation,
Muskegee, Indian Territory.

Dear Sir:

There is enclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting the application for the enrollment of Amanda Hill et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

SIGNED
Commissioner.

J.O.R.
Enc.L-2

Muskogee, Indian Territory, February 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the Cherokee Freedman case of Amanda Hill, together with the Commissioner's decision dated February 28, 1907, granting the application for the enrollment as Cherokee freedmen of Amanda Hill, Della Hill, Flossie Hill and Sadie Hill.

This case was remanded to the Commissioner for rehearing and readjudication on February 6, 1907 (I.T.D.875-05, 1033, 1870-07).

You are advised that the Cherokee Nation protests against the enrollment of these persons as Cherokee freedmen, and his protest, together with the reply thereto by the attorneys for the applicants, is enclosed. There is also enclosed a schedule containing the names of these persons, and in the event of the approval of the Commissioner's decision in this case, the approval of this schedule is also recommended.

It will be noted that no numbers have been given the names of the persons on this schedule. This action is taken

-2-

in accordance with the procedure adopted by the Commissioner January 28, 1907, and approved by the Department in its telegram of February 9, 1907.

In the event that the Department concurs in the Commissioner's recommendation in the preceding paragraph, it is further recommended that numbers be given the names of the persons on this schedule in consecutive order by Mr. McGarr, the employee of my office, now in Washington.

Respectfully,

Commissioner.

J.O.R.
Enc.L-3.

Through the

Commissioner of Indian Affairs.

(COPY)

Land Reference in
body of letter.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There are forwarded herewith several reports from
Commissioner Dixby, transmitting the records in certain
citizenship cases, together with the decision of the
Commissioner, granting the application for the enrollment
of the persons involved in the following cases:

CHEROKEE FREEDMEN.

21810. Mattie Mekokey.

21811. Amanda Hill, et al.

CHEROKEES BY INTERMARRIAGE.

21806. Martha Pheasant.

21807. Mary A. Raper.

The Office examined the record in each of the above
cases and recommends that the decision of the Commissioner
granting the applications of the persons therein involved,
be approved.

There is also inclosed with each case a schedule containing
the names of the persons involved therein. The approval of
these schedules is also recommended.

It will be noted that no roll numbers have been placed on these schedules opposite the names of the persons appearing thereon, and the Commissioner suggests that this be done by Mr. McGarr, an employe of his Office now in Washington.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJW:LM

D.C. 12025-1907.

SPECIAL

J.P.
YHE.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

I.T.D. 7904-1907.

March 4, 1907.

LRB.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the recommendation contained in your letter of February 28, 1907, your decision adverse to Mattie Mackey for her enrollment as a Cherokee freedman, is reversed; the decision of the Department affirming your decision is accordingly rescinded. Her application for enrollment is granted and the schedule submitted with your letter, bearing her name, has been approved this day and will be disposed of in the usual manner.

The Indian Office submitted your said report with its letter of March 2, 1907 (Land 21810 et al), copy inclosed, and also the records in the cases of Amanda Hill, et al., Cherokee Freedman, Martha Pleasant and Mary A. Raper, applicants for enrollment as intermarried Cherokees. It recommended the approval of your decisions in all these cases in favor of the applicants, and also of the schedules submitted therewith bearing their names.

In accordance with your recommendation and that of the

-2-

Indian Office, your decisions in favor of the applicants in said cases are hereby approved, also said schedules, which will be disposed of in the usual manner. The papers in the cases have been sent to the Indian Office.

Respectfully,

(Signed) H. A. Hitchcock,
Secretary.

Enine. and
is for Ind. Of. with
copy hereof.

A.F.Mc 3-4-07.

Cherokee F.R.

678

COPY

Muskogee, Indian Territory, March 18, 1907.

Amanda Hill,

Vinita, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting the application for the enrollment of yourself and children, as Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

Respectfully,

SIGNED _____

Commissioner.

RPI

Cherokee F.R.

678

COPY

Muskogee, Indian Territory, March 18, 1907.

Starr & Patten,

Attorneys for Amanda Hill, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated, February 28, 1907, granting the application for the enrollment of Amanda Hill, et al., was Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Samuel J. Cox*

Commissioner.

Enc I-9

RPI

Cherokee F.R.

678

COPY

Muskogee, Indian Territory, March 18, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 28, 1907, granting the application for the enrollment of Amanda Hill, et al., as Cherokee freedmen, was affirmed by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Blakely*
Commissioner.

Enc I-8

RPI

302
288



Department of the Interior

notified
3/22/02

Amanda Will,
Winito, Indian Territory.



Letter Parcel No. 395 P.O. 1907 from
Required for registration
addressed to
Postmaster, per
last postage prepaid

Letter Parcel No. 107 P.O. 1907 from
Required for registration
addressed to
Postmaster, per

Cher Fr 1563

Trans. from Cher Fr D915

Cher Fr 1563

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 27th, 1901.

In the matter of the application of George Rider for enrollment as a Cherokee Freedman; said Rider being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Messrs Mellette & Smith, for Applicants.

Messrs. W. W. Hastings and J. S. Davenport, for Nation

- Q What is your name? A George Rider.
Q How old are you? A About 40.
Q What is your post office address? A Lenapah.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Not that I know of.
Q What is your father's name? A Henry Rider.
Q What is your mother's name? A Elizabeth.
Q Are they living? A Yes, sir.
Q Is your mother a Cherokee Freedman? A Yes, sir.
Q Is her name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q Where were you born? A I was born in the Cherokee Nation.
Q Josie Alberty is your sister? A Yes, sir.
Q Whereabouts were you born? A On Grand river.
Q Have you lived in the Cherokee Nation ever since? A No, sir.
Q Well, where have you been living? A I have been here part of the time.
Q Well, what part of the time? A Since '76.
Q You have been here since '76? A Yes, sir.
Q Where did you live before that? A Lived in the State.
Q What State? A Kansas.
Q You have been here since '76? A Yes, sir.
Q Why isn't your name on the roll of 1880? A I don't know.
Q Did you apply to have it put on the roll of 1880?
A My father did.
Q Well, they refused to do it; your father's name isn't on the roll of 1880? A Yes, sir.
Q Is your father's name on the roll of 1880? A Yes, sir.
Q Your father's name was Henry Rider? A Yes, sir.
Q Did you apply to the Kern-Clifton Court to get your money?
A I never got any.
Q You never drew any? A I drew the Wallace money.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon; name of applicant's father appear upon the 1880 Authenticated roll, page 161, #2315, Henry Rider, Cooweescoowee.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 135, #2821, Cooweescoowee District.

- Q Did your father have a wife named Mariah? A Yes, sir.
Q Your father was married twice was he? A I guess he was.
Q Was Mariah his first wife? A No, sir.
Q Second wife? A Yes, sir.
Q Mariah Rider your stepmother? A Yes, sir.
Q Are you a brother of Josie Alberty? A Yes, sir.
Q And Josie applied here the other day? A Yes, sir.
Q Were you here when she applied? A Yes, sir.
Q You are a full brother by the same mother of the Josie Alberty who applied here? A Yes, sir.
Q Now, have you and Josie another full brother?
A We have a full brother, Henry.
Q He is a full brother also is he? A Yes, sir.

George Rider.--2.

Q Where do you live? A I live in Coaweescoowee District.
Q What is your post office? A Lenapah.
Q How long have you lived there? A I have been living there since 1876.

BY MR. HASTINGS:

Q Where did you come from in '76? A We come from Ossawatimie.

BY COM'R NEEDLES:

Q Where is that? A In the state of Kansas.

BY MR. HASTINGS:

Q Did your mother come with you? A No, sir.

Q Did she continue to live up there? A Yes, sir.

Q Is she living there? A Yes, sir.

Q Where? A She is at home.

Q At Ossawatimie? A No, sir, down here in the Nation.

Q When did she come down here? A I don't know.

Q Was that after 1876? A Little bit afterwards.

Q You were with your mother during the war?

A Yes, sir.

Q You were taken out at the beginning of the war? A Yes, sir.

Q And you come back here in '76? A Father come after us.

Q In '76? A Yes, sir.

Q Now, have you ever been out of the Cherokee Nation to work since that time? A Yes.

Q Where? A In Coffeyville.

Q Any place else? A No.

Q Have you been married? A No, sir.

Q Never were? A No, sir.

Q You have resided then continuously in the Cherokee Nation since 1876? A Yes, sir.

BY COM'R NEEDLES:

Q You say your father went after you at Ossawatimie himself in '76?

A He may have come before that.

Q He brought you and your mother? A Three children of us.

Q Didn't bring your mother? A No, sir.

Q Where was Mariah at that time? A They was living together.

Q Mariah and Henry were living together? A Yes, sir.

Q Did he have any children by Mariah? A Yes, sir.

Q They were younger than you? A Yes, sir.

Q Your mother was his first woman? A Yes, sir.

BY MR. HASTINGS:

Q Did you apply to the Kern-Clifton Commission yourself?

A No, sir.

Q You didn't come in and make a statement? A No, sir, I sent Josh Alberty.

BY COM'R NEEDLES:

Q Do you know how long your father, Henry Rider, had been living with Mariah Rider? A I don't know.

Q Your father must have had two wives at that time?

A He got more than that.

BY MR. SMITH:

Q You don't know about that, you can guess at it? (No response.)

BY COM'R NEEDLES:

Q Do you know that; do you know that he had more than two wives?

A Had another woman.

Q He didn't live in Utah did he? A I don't know anything about Utah.

Q Do you know that he was living with your mother and Mariah at the same time? He was living with Mariah.

Q Your mother was his first wife? A Yes, sir.

Q The war parted them? A No, sir.

Q He was not with her up in Kansas? A No, sir.

Q Where was he married? A He was down here.

Q He was living with Mariah down here and your mother up there?

A No.

Q Why do you say no? A He went up there and got us children and left her.

George Rider.--3.

- Q When you children got down here he was living with Mariah?
A Yes, sir.
BY MR. HASTINGS:
Q What is your eldest sister's name by your mother?
A Josie Alberty.
Q How old is she? A She is a year or two older than I am.
Q Did you know Polly Rider? A Yes, sir.
Q Was she Mariah's child? A Yes, sir.
Q Did you know Tony Rider? A Yes, sir.
Q Was she Mariah's child? A No, sir.
Q She was your father's child? A Said to be.
Q And not by your mother? A No, sir.

COM'R NEEDLES: George Rider applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 of the census roll of 1896. He is duly identified upon the Wallace Roll. He avers that he is a child of Henry Rider, and his father, Henry Rider, is found upon the authenticated roll of 1880 according to the page and number of the roll as indicated in the testimony. He avers that he is a sister to Josie Alberty and same father and same mother of Josie Alberty, who has been listed for enrollment upon doubtful card #870, and the testimony taken in the matter of the enrollment of Josie Alberty will be made part of the record in the case at bar, and a copy thereof filed herewith. Reference is made as to the residence of the said George Rider. He will now be listed for enrollment as a Cherokee Freedmen upon a doubtful card. He will be duly notified of the action of the Commission in the premises.

---000000000---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 15th day of July, 1901.

[Signature]

Commissioner.

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COM.

FILED

JUL 18 1901

AC-ING. D. B. B. B. B.

Enclosed are 4 copies of the report of the Commission
on the subject of the proposed amendment to the
Constitution of the State of New York, which
was adopted by the Convention of 1894, and
which was approved by the Legislature in 1895.
The report contains a full and complete
statement of the facts and circumstances
connected with the proposed amendment,
and also a full and complete statement
of the reasons for its adoption.
The report is divided into two parts,
the first of which contains a full and
complete statement of the facts and
circumstances connected with the
proposed amendment, and the second
of which contains a full and complete
statement of the reasons for its
adoption. The report is a very
interesting and valuable document,
and it is hoped that it will be
of great service to the people of
this State.

1000

B

30915

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 27 1901

[Handwritten signature]

Acting Chief Clerk

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date June 27, 1901
 Post Office Memphish T.
 District Geo

1. Name George Rider Age 40
 Owner's name _____ Citizenship _____
 Year 1895 Page 135 No. 282 District Geo

Parents:

Father Henry Rider - dead Citizenship _____
 Mother Elizabeth " - Geo Citizenship _____

2. Name of wife _____ Age _____
 Owner's name _____ Citizenship _____
 Year _____ Page _____ No. _____ District _____

Parents:

Father _____
 Mother _____
 Citizenship _____

Names of Children:

3.	Year	Page	No.	Dist.
4.	Year	Page	No.	Dist.
5.	Year	Page	No.	Dist.
6.	Year	Page	No.	Dist.
7.	Year	Page	No.	Dist.
8.	Year	Page	No.	Dist.
9.	Year	Page	No.	Dist.
10.	Year	Page	No.	Dist.
11.	Year	Page	No.	Dist.
12.	Year	Page	No.	Dist.

Application made by _____

Stenographer _____

Replicated by Minette and Smith.

Ref 26. 878

To be filed with case of George Rider, C. F. D.#915.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 26th, 1901.

In the matter of the application of Josie Alberty for the enrollment of herself and child as Cherokee freedmen; said Alberty being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Messrs. Mellette & Smith, for Applicants.
Mr. W. W. Hastings, for Cherokee Nation.

- Q What is your name? A Josie Alberty.
- Q How old are you? A I guess I am about 43.
- Q What is your postoffice? A Lenapah.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
- Q Have you ever applied to be enrolled by any other Nation or tribe? A No, sir.
- Q Who do you want to enroll besides yourself? A My daughter, Easter Alberty.
- Q How old is she? A 16.
- Q Any one else? A No, sir.
- Q Are you married? A I have been my husband is dead.
- Q Was your husband named Alberty? A Josh Alberty.
- By Mr. Smith: Where do you live? A Up in Gooseneck Bend.
- Q Is that in the Cherokee Nation? A Yes, sir.
- Q How long have you lived there? A All my life.
- Q How old are you, you say? A My parents tell me I was three year old before the war; I was born two weeks before Christmas they said and that is all I can go by; but the way I can guess it I think I am about 43 years old.
- Q Do you have any recollection of yourself as to when you came back to the Cherokee Nation after the war or who took you out? A I don't remember anything much about it.
- Q You don't remember? A No, sir.
- Q You say you have been living there ever since you can remember where you are living now? A Not altogether, I have been to different places after the war.
- Q Have you any farm in the Cherokee Nation? A Yes, sir.
- Q Where? A Right on the Bend of Gooseneck.
- Q How long have you had it? A Ever since I have been married.
- Q How long is that? A I married in '83, Josh Alberty.
- By Mr. Hastings: What was your father's name? A Henry Rider.
- Q And what was your mother's name? A Betsy May.
- Q You don't remember before the war? A No, sir.
- Q You don't remember coming back here? A No, sir.
- Q Now, with whom did you live when you can first remember? A I can't remember half of the people.
- Q Who were you living with, where was your home? A On Brushy
- Q How far was that from Chouteau? A I don't know.
- Q How long did you stay there? A Good while.
- Q Well, how old were you when you left there? A I was single woman
- Q Well, did you stay there until you were married? A No, I married up here, my father moved here, he moved up here on the river.
- Q Well, did you stay there with your father on Brushy? A Yes, sir, he went and got us after the war.
- Q Before he moved? A Yes, sir.
- Q Just before he moved from Brushy? A Yes, sir.
- Q How long did you stay down there at Brushy before you moved? A I can't tell you.

- A I can't tell you.
- Q You will have to tell me something; about how long now, did you stay there the year before your father moved up to Brushy?
- A It might have been two or three years.
- Q Might it have been less? A No, sir, it may have been more.
- Q You were about grown when you left there? A Yes, sir, I was about 14 or 15.
- Q What kind of a house did you live in? A Little old log house.
- Q Who were your neighbors down there? A I can't remember any of the names.
- Q Well, any of them? A There is uncle Jim Rider, uncle Lige.
- Q Jerry Alberty living down there? A Away below there.
- Q Was any Cherokees living around in that Country? A Yes, sir.
- Q What were their names? A I don't know any one but Bill Sunday and Jim Sunday.
- Q About what year did your father move away from down there?
- A I could not tell that.
- Q But you were about 14 or 15 years old? A Yes, sir.
- Q I am trying to get your best judgment about how long you remained down there before you moved away? A I could not guess at it.
- Q You have got no judgment at all as to that? A I wasn't grown when my father come up from the south and got us.
- Q Your father come up here and got you? A Yes, sir, got mother one Sunday and my father went south and got three of us children.
- Q What old man Joel Bryant living down there when you come there?
- A I don't remember.
- Q Do you remember R. W. Lindsey? A I think, I think my owners did I ain't certain.
- Q What town were you living in in Kansas when your father come up after you? A Little town we used to call Indianapolis.
- Q Do you know what other towns were anywhere near it?
- A They say there ain't none now in Osawatimie now.
- Q Who did you live with up there? A Stayed with my mother.
- Q Where were you married? A Here in Gooseneck.
- Q And your husband is named Josh Alberty? A Yes, sir, - am his second wife; I married him in '83.
- Q You went back to Kansas after you came down here with your father? A No.
- Q Never been back up there? A Oh, I have been back lots of times but not to stay.
- Q How long did you ever stay up there? A I never stayed there but just a little while at the time.
- Q Did you apply to the Kern-Clifton Commission for enrollment?
- A Yes, sir.
- Q Under what name? A Josie Alberty, or Josie Wright, but I didn't get any money, but the Wallace roll I got.

The 1880 authenticated roll, the 1896 census roll and the Kern-Clifton roll of Freedmen of the Cherokee Nation examined and name of applicants not found thereon.

The Wallace roll of Freedmen of the Cherokee Nation examined and name of applicant identified thereon, page 183, #3441, Josie Alberty, no district given.

- By Com'r Needles: Now, did you say you drew money on the Kern-Clifton roll for Easter? A Yes, sir.
- Q What was your mother's name? A Betsy May.
- Q Betsy May living? A Yes, sir.
- Q Your father living? A No, sir, he is dead; Henry Rider, is dead.

The 1896 Census roll of freedmen of the Cherokee Nation examined and name of applicant's child found thereon, page 395, #32, Easter Alberty, Cooweescoowee district.

By Mr. Hastings: How many sisters come back with you? A My father, there was just three of us he went after, two boys and one girl.

Q When did you first see Lewis Daniels? A First saw Lewis ever since I got back here.

Q Where did you first see Lewis? A In the Nation.

Q On Big Creek? A No, sir.

Q Where? A I don't know.

Q Just met him in the road? A No, sir, some big place.

Q You don't remember? A No, sir, my father had him with him.

Q Your three sisters with you? A No, sir.

Q Your mother? A There wasn't none of them.

Q Just you and your father along? A Yes, sir.

Q You remember seeing him there? A Yes, sir.

Q Where did you first see Katie Ann? A I used to stay with Katie.

Q Before the war? A Before the war.

Q When did you see her after the war? A Shortly after I come here

Q Where? A She was living in below here.

Q Where? A I could not name the place.

Q What district was it in? A Cooweescoowee I suppose.

Q Was it in Gooseneck? A No, sir, Below.

Q Down here on Grand river? A Yes, sir.

Q On what side of Grand river? A I could not tell the sides of the river now if I would go there.

Q How long was it after you came back until you saw her?

A Ever since I remember myself I saw her.

Q How long is that after you got back? A I could not tell you that.

Q As much as seven years? A I could not tell.

Q Twenty?

Objected to by Attorney for Applicant for the reason that applicant does not know.

Com'r Needles: She says she does not know.

L. D. DANIELS, being duly sworn by Commissioner T. B. Needles, testified as follows: By Mr. Smith:

Q State your name? A L. D. Daniels.

Q How old are you? A 56; post office Claremore.

Q Do you know this applicant, Josei Alberty? A Yes, sir.

Q Do you know her mother? A Yes, sir.

Q What was her mother's name? A Oh, I know her good but I can't think of her name now; she lives right by me there, I can't think of her name now.

Q Did you know her father? A Yes, sir, he was my uncle, Henry Rider.

Q How long have you known this girl? A I have known her ever since '76.

Q Where was she when you first knew her? A On the Verdigris river, the Cherokee Nation; up here where she is living now.

Q Who was she with? A Henry Rider, her father.

Q Were you or were you not acquainted with Henry Rider before the war? A Yes, sir.

Q Were you acquainted with his girl's mother? A No, sir, I wasn't acquainted with her mother.

Q Was Henry Rider a slave? A Yes, sir.

Q To whom did he belong? A Tom Rider.

Q Was Tom Rider a Cherokee Indian? A Yes, sir, he was.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q Where was Tom Rider living at the time the war commenced? A On Grand river.

Q In the Cherokee Nation? A Yes, sir.

Q Where was Henry Rider? A Henry was there, same place.

Q Do you know whether Henry was taken out of the Nation or whether he went out during the war? A Yes, sir.

Q Well, did he go out? A Yes, sir.

- Q Do you know when he returned to the Cherokee Nation?
Q Yes, sir.
Q When? A He returned the fall of '65.
Q Where did he come to? A Right there at Fort Gibson, sir.
Q Is he living or dead? A He is dead.
Q How long has he been dead? A He has been dead near about 18 or 19 years, about 18 I think, somewhere along there; I believe he died in '89 if I mistake not, I think he did.
Q Well, where did this man Henry Rider locate after coming, what became of him after you knew him in 1855? A He moved up here on Brushy, sir, about 25 miles from Fort Gibson.
Q In the Cherokee Nation? A Cherokee Nation, three miles from Chouteau Station, east of the station.
Q Well, at the time you knew him in '65 did he have any children with him? A No, sir, he didn't, he was there with Mr. Hicks, Dan Hicks there at Fort. Gibson.
Q Well, now, did you know when Josie came back to the Cherokee Nation? A The first time I seen them I seen them in '76, Spring of '76.
Q Where were they when you saw them? A Right up here on the river known as Goesseneck, Cherokee Nation.
Q Well, who did you see anybody besides Josie? A Henry and George of the same father and mother, so said to be.
Q Which was the older, this girl or the boys? A Josie.
Q How old did she appear to be at that time, about how large?
A She looked to be about 14 or 15 years old.
Q Do you know how long they had been in the Cherokee Nation when you first saw them? A No, sir.
Q You don't know that? A No, sir.
Q Do you know of your own knowledge when these children were born?
A No, sir.
Q Well, about how old did Henry the boy, appear to be at that time? A He appeared to be.
Q You said this girl had two brothers? A Yes, sir.
Q What were their names? A Josie, George and Henry Alberty Henry I supposed seemed to be the youngest one.
Q How old did he seem to be? A He appeared to be about nine or ten.
Q And George was between the two, between Josie and Henry?
A No, George was older than Henry, he is next to Josie.
Q Is he younger or older than Josie? A He is younger than this girl.
Q Did she have any sisters? A Yes, sir, she got sisters up there now that are living.
Q When did you first know her sisters? A I got acquainted with one of her sisters at Fort Gibson, the baby that is Charley Key's wife now, they called Hannah.
Q Is Hannah older or younger than Josie? A She is younger I guess she is on the authenticated roll.
Q Younger you say? A Yes, sir, I guess she is younger, I don't know.
Q Well, any other sisters now besides Hannah? A Net Rider, she goes by the name of Net Scott now, on the roll it is Net Rider, and then she has got ~~another~~ another sister by the name of Lena.
Q Are these last children you mention of different mothers?
A Yes, sir; one father.
Q Well now, do you know how many children Henry Rider had by this woman, Josie's mother? A Only three that I know of.
Q By Com'r Needles: Did you know this girl's mother, Betsy?
A Yes, sir.
Q Was she a slave? A I guess so, I didn't know of her being a slave, I just got acquainted with her since the surrender.
Q When was the first time you ever saw Betsy? A I saw Betsy near about the same time, it may have been a year after that.
Q After what? A After '676.

- Q You didn't see her at the time you saw Henry the first time?
A No, sir.
- Q Betsy was his first wife? A Yes, sir.
- Q And Betsy is the mother of Josie? A Yes, sir, Henry went South and Betsy went North.
- Q You don't know whether Henry and Betsy were ever married or not?
A No, sir.
- Q You don't know where Betsy was a slave or not? A No, sir.
- By Mr. Hastings: Now, L. D., when you knew Henry after the war he had another wife didn't he? A Mariah, yes, sir.
- Q And he always lived with her as his wife, that is, after the war?
A Yes, sir.
- Q And Mariah is the mother of these children you have mentioned here a while ago? A Mother of one.
- Q Mother of Jennette? A Hannah.
- Q Ain't Mariah the mother of Jennette or Jennie? A No, sir.
- Q Who is the mother of Jennie? A Polly Rider.
- Q What I mean this girl's mother is not the mother of any of these children you have mentioned a while ago? A No, sir.
- Q And you never saw this girl and her mother since the war until '76? A No, sir.
- Q That is the first time you saw her? A Yes, sir.
- Q Right Now, where has this girl been living since '76.
- Q Right over in the Cherokee Nation on Verdigris river in half a mile of my farm.
- Q You never knew her mother before the war? A No, sir, I wasn't acquainted with her before the war.

JOSIE ALBERTY, the applicant, recalled: By Mr. Hastings:

- Q Didn't you used to live at Iola, Kansas? A No, sir.
- Q You come to Gooseneck Bend in 1874 from Iola Kansas?
A No, sir.
- Q Didn't you have a witness named John Baldrige before?
A No, sir.
- Q Is your mother named Betsy? A Yes, sir, I can tell you who my witnesses was, Eli Keys and Katie Vann and Hammer Brown.
- Q Did you know a woman by the name of Louisa, have you got a sister by that name? A No, sir, I ain't got no other sisters.
- Q Well, half sisters? A No, sir.
- Q Do you know Louisa, Walter Mar and Pigeon? A That's my half sister's child.
- Q Then they are nephews of yourself? A Yes, sir, they is here now.
- Q Where did your mother die? A My mother ain't dead she is living, she is not dead, she is living.

KATIE VANN, being first duly sworn by Commissioner T. B. Needles, testified as follows: By Mr. Smith:

- Q State your name? A Katie Vann.
- Q How old are you? A 56 years old.
- Q Where do you live? A Lenapah.
- Q How long have you lived in the Cherokee Nation? A Well, I was born and raised here and went out to Kansas during the war and come back here in '86.
- Q Do you know this applicant, Josie Alberty? A Yes, sir.
- Q Who was her father? A Rider.
- Q Who was her mother? A Betsy May.
- Q Did you know her father and mother before the war? A Yes, sir.
- Q Was Betsy May a slave? A Yes, sir.
- Q Who did she belong to? A Mrs. May, she was a widow May.
- Q Was Mrs. May a Cherokee Indian? A Yes, sir.
- Q Citizenship of the Cherokee Nation? A Yes, sir.
- Q Was Henry Rider a slave? A Yes, sir.
- Q Whom did he belong to? A Tom Rider.
- Q Was Tom Rider a Cherokee Indian? A Yes, sir.

- Q Where did he living at the time the war commenced? A On Grand river.
- Q Where did this girl's father and mother live at the time the war commenced? A He was living on Grand river.
- Q Were they married in slavery times? A Yes, sir, I wasn't at the wedding, but I heard about it, I could have been there they were married.
- Q Do you know when Josie was born? A No! sir, I don't recollect when she was born.
- Q Was she born before the war? A Yes, sir.
- Q Has Josie any sisters or brothers? A Yes, sir.
- Q What are their names? A George and Henry.
- Q Are they older or younger? A They are younger she is the oldest.
- Q Do you know whether George was born before the war or after? A He was born before the war.
- Q Do you know whether Henry was born before or after the war or during the war? A He was born during the war, I guess, was a little baby when they went to Kansas.
- Q Now, what became of the mother of Josie here? A She lived out on Verdigris.
- Q What became of her during the war? A She went to Kansas.
- Q What became of these children? A She had them with her.
- Q What became of their father? A He went south.
- Q Who did he go with? A Went with his owners I guess, Rider.
- Q Do you know when the father, Henry Rider, first returned to the Cherokee Nation after the war? A Yes, sir.
- Q When? A In '66.
- Q Do you know when these children, this applicant and her two brothers, George and Henry, returned? A It must have been in '75 or '76 somewhere along there.
- Q With whom did they return? A I think he went after them if I ain't mistaken.
- Q Who, Henry? A Yes, sir, their mother sent word by me when I stated from Kansas for him to come after them.
- Q Did you see them here in the Cherokee Nation at any time about the time you have mentioned did you say it was '75 or '76?
- A Yes, sir.
- Q Where did you see them? A Up on Verdigris, Goose Neck Bend.
- Q Who were they with? A I saw them there at their father's.
- Q Do you know where Josie this applicant has been living since that time? A She lived around there with her father and with Jess Vann's folks some until she married and she married Josh Alberty and lived out around places.
- Q When did she marry Josh? A I guess about 15 or 16 years ago, I forget what year.
- By Com'r Needles: How old was Josie when she returned in '76?
- A I don't know.
- Q Was she grown? A No, sir, she wasn't grown.
- Q Well, when did her mother return, Betsy? A She came along about the same time.
- Q She stayed there until that time? A Yes, sir.
- Q Was Josie born before the war? A Yes, sir.
- Q And was taken to Kansas and stayed there until '76? A Yes sir.
- By Mr. Hastings: Where did you live before the war? A I lived down on Grand river.
- Q On which side? A On the east side.
- Q How far from where Locust Grove is now? A About four or five miles.
- Q How far from you did this woman's mother live? A She lived about 12 miles above us up on Grand river.
- Q How old were you when the war came up? A I guess I was about 18 or 19.
- Q Do you ever remember especially of seeing this girl before the war?
- A Yes, sir.

COMMISSION TO THE FIVE CIVILIZED TRIBES
DEPARTMENT OF THE INTERIOR

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- Q How old did you take her to be then? A She was very small, I could not tell; she must have been four or five years old.
- Q Where did Rider live before the war? A He lived at Rider's his master.
- Q On which side of the river did they live? A On the west side.

The 1880 Authenticated roll of freedmen of the Cherokee Nation examined and name of applicant's father found thereon, page 161, #2315, Henry Rider, Coowesscoowee district.

Com'r Needles: Josie Alberty applies for the enrollment of herself and her child, Easter. She avers that she is the child of Henry Rider by his wife, Betsy May, that Henry Rider was a slave as well as herself and taken out of the Cherokee Nation during the war. The evidence shows that Henry Rider returned to the Cherokee Nation in '65; further shows that the applicant did not return to the Cherokee Nation until the year 1876, that she has lived in the Cherokee Nation since that time. The evidence produced shows that the said Henry Rider was married to Betsy May, the mother of the applicant, and applicant returned in 1876 she was a child. Her name cannot be found upon any of the rolls of the Cherokee Nation except the Wallace roll and she is duly identified upon the Wallace roll. Her child, Easter, is duly identified upon the census roll of 1896; her father Henry Rider is duly identified upon the authenticated roll of 1880, all according to the page and number of the rolls as indicated in the testimony. She avers that the said Easter is her child. Consequently Josie Alberty and her child, Easter, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. They will be notified of the action of the Commission when the same is arrived at.

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J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 27th of August, 1901.

[Signature]

Commissioner.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, AUG 26 1901, 1901.

Received of the Commission to the Five Civilized
Tribes one copy of the testimony in the matter of the
application of George R. Dixon for en-
rollment as Cherokee Freedmen.

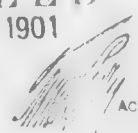
Cher. Cherokee Freedmen # 8915

Michael J. Dixon
attys for applicant:

72915

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 20 1901



ACTING COMMISSIONER

-R-

File with C.F. D-915, George Rider, et al.

SUPPLEMENTAL: C.F.D-918, Henry Rider.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., Sept. 27, 1901.

In the matter of the application of Henry Rider for enrollment
as a Cherokee Freedman;

TESTIMONY ON THE PART OF THE CHEROKEE NATION.

Appearances:

Mr. Smith, of Mellette & Smith, atty's for applicant;
Mr. W. W. Hastings, attorney for the Cherokee Nation.

BENJAMIN NAVE, being sworn, and examined, testified as follows:
BY MR. HASTINGS:

- Q What is your name? A Benjamin Nave, or Rollin.
- Q What is your age? A 37.
- Q What is your post-office? A Vinita.
- Q Are you a recognized citizen of the Cherokee Nation? A I am.
- Q Do you know an applicant for enrollment as a Cherokee Freedman
name of Henry Rider, Jr., who lives at Lenapah? A Yes sir.
- Q Mr. Nave, how long have you known him? A I have known him since
'90, or '91.
- Q Where did you first see him? A First saw him in Coffeyville.
He was coming to Gooseneck Bend, hunting his people.
- Q Did you have any conversation with him? A Yes sir.
- Q What was the conversation about, that is I mean about his ~~where~~
residence? A I met him in Coffeyville, and some one told him I lived
down in the neighborhood where his folks lived, and he come to me
and wanted to know if I knew his people; I told him I did; and he
asked me how soon was I going down there that way; I told him I was
going out pretty soon, and he rode out in the buggy with me down
as far as Bill Vann's, that was in about a quarter of where he
wanted to go.
- Q And you directed him to his mother's? A Yes sir.
- Q Did he know anything about the country at that time? A No sir,
~~but~~ it was the first time he had been down there he said; he lived
in Ottawa, Kansas; he left his family down there and had come to
look out a location.
- Q Was he married at that time? A Yes sir, said he was.
- Q Where did he marry? A In Ottawa I suppose, that's where he said
he married.
- Q Did you see him after that? A Yes sir.
- Q About how long? A He stayed there probably a couple of months
and went back and was gone about a year, and then he come back
and brought his family; after he had been down there probably 6 or
8 months his wife taken sick and died; we set up with her the night
she died.
- Q Did he have some children? A Had 3.
- Q You know whether they were born before or after he came down
here? A He brought them with him.
- Q What were the children's names? A I don't know their names.
- Q Did you know his wife's name? A No sir.
- Q What year was it you say he brought his wife down there? A Well
the first time he come it was right after the Wallace payment, and
he stayed down there a couple of months and went back, and he was
gone about a year, and come back again with his family.
- BY MR. SMITH:
- Q Now what Rider was that you are talking about? A Henry Rider.
- Q You know who his father was? A No sir.
- Q You know who his mother was? A They called her Aunt Polly Rider.
- Q Now that was just after the Wallace court? A Yes sir, after the
Wallace payment.

Henry Rider sup'l 2

Q Did you testify against this man before the Kerns Clifton court? A No sir, I didn't testify against any one.

Q Where do you live now? A I live in Vinita.

Q Well you knew this then didn't you, when the Kerns Clifton court was in session? A Yes sir, but I wasn't around with the Kern Clifton Court, I had other business.

Q Are you around with this court? A Not particular around with it, but I am here now, summonsed here.

Q What is your business now? A My business is common laborer.

Q Aren't you in the employ of the Cherokee Nation now? A I am a witness here, summonsed here.

Q How long have you been a witness? A Why I have been here probably about three weeks.

Q Were you a witness when the Commission was taking testimony on the rounds when they were taking applications at Vinita and Chelsea and Nowata? A No sir, I wasn't no witness.

Q Where were you then? A I was employed by the Cherokee Nation then.

Q Well aint you employed still by the Cherokee Nation? A Yes sir.

Q In what capacity are you employed?

BY MR. HASTINGS: Now, Mr. Smith, I submit that that doesn't impeach this man; that's no way of impeaching him; he says he is subpoenaed here as a witness.

BY MR. SMITH: All of these questions go for what they are worth I think as affecting the credibility of the witness; I think it is competent, I wouldn't have offered it.

BY COMMISSION: Objection will be noted; answer the question.

Q Question was, in what capacity you are employed? A Why to look after these people that haven't got no right on this roll.

Q That's your business? A Yes sir.

Q You are a Freedman are you? A Yes sir.

Q Have you ever been arrested for anything? A Yes sir.

Q What? A Assault and attempt to kill.

Q What else? A Nothing.

Q Were you tried? A Yes sir.

Q Where? A Fort Smith.

Q Is that the only thing you were ever arrested for? A Yes sir.

Q That's the only thing you were ever tried for? A Yes sir.

BY COMMISSION: This testimony will also be made a part of the record in Cherokee Freedmen cases number D-870, and D-918.

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M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this October 8th, 1901.

[Signature]

Commissioner.

Q You are a Cherokee are you? A Yes sir.
Q That's your punishment? A Yes sir.
Q After these people that haven't got no right on this roll.
Q Question was: In what capacity you are employed? A Yes sir.

BY COMMISSIONER: Objection will be noted; answer the question I think it is competent; I wouldn't have offered it.

BY MR. SMITH: All of these questions to the witness; is subpoenaed here as a witness.

BY MR. HAYLINGS: Now, Mr. Smith, I submit that that doesn't
Q In what capacity are you employed?
Q Well sir you employed still by the Cherokee Nation? A Yes sir.

Q Where were you then? A I was employed by the Cherokee Nation
Cherokee and now? A No sir, I wasn't no witness.

Q Where were you when they were taking subscriptions of funds and
Q Well you a witness when the Committee was taking testimony on
Q How long have you been a witness? A Well I have been here long-
Q Witness here? A Yes sir.

Q Where you in the employ of the Cherokee Nation now? A I am a
Q What is your business now? A My business is common laborer.

Q Are you working with this court? A Not particularly around with it,
Q Court again seasons? A Yes sir, but I wasn't around with the Kern
Q Well you know this then? A Yes sir, I know the Kern
Q Where do you live now? A I live in Atlanta.

Q Did you testify against this man before the Kern
Q Yes sir.

Henry Rider and J. S.

DEPARTMENT OF THE INTERIOR
MISSION TO THE INDIANS
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OCT 11 1901

F. D. 915

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
.....day of..... A. D. 190...

Given under my hand this.....
day of..... A. D. 190...

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

19 day of Apr 1902

Attorney for applicant
M. L. Brown

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a
true copy of the within notice to.....

on the.....day of..... A. D. 190...

Subscribed and sworn to before me
this.....

Notary Public.

COMMISSION TO THE CHIEF JUSTICE

FILED

APR 19 1902

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of George Rider,
for enrollment as Cherokee Freedmen:

Case No. F. D. 915.

To George Rider or Relictor his attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on April 10, 1906. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this April 10, 1906.

L. B. Bell

W. M. Hastings
Jas. S. Darnholt
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 22, 1902.

In the matter of the application of Josie Alberty et al for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-870.

Applicants represented by Mellette & Smith, Vinita, I. T.
Cherokee Nation represented by James S. Davenport.

WILLIAM M. MARTIN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A William M. Martin.

Q Where do you live, Mr. Martin? A I live at Ossawatimie, Miami County, Kansas.

Q How long have you lived at Ossawatimie in the state of Kansas? A Since December, '58.

Q Since you lived at Ossawatimie did you get acquainted with a colored family by the name of Rider? A Yes, sir, I know some colored people there by the name of Rider.

Q Where were they living when you first got acquainted with them? A They were living about four miles south of Ossawatimie, on a farm called the Prescott farm.

Q Do you know what the old lady's name was? A I think her name was Betsy.

Q Were there any children in the family, any sons and daughters? A Yes, sir, there were some children.

Q Do you know what their names were? A I remember George Rider and Henry Rider, and I think there was a girl named Josephine.

Q How long did you know these people there, Mr. Martin, in that county, the neighborhood where you lived? A Well, I knew them around there in that neighborhood, it was in town or living in the immediate vicinity, up till along in '70s I reckon.

Q How late in the '70s do you have any definite recollection of their living there? A Well to the best of my recollection it was in '77, fall of '77, late in the fall.

Q What, if any, circumstance, happened that makes you remember that they were living there at that time? A Those two young Riders were shot there by a white man.

Q Was the man any relation of yours by which you remember that? A Yes, sir, he was a brother-in-law of mine.

Q Who was it that shot the boys? A John Snider.

Q Do you remember anything about whether or not he was tried for it, and what year it was? A I think it was at the October term of '78.

Q Now after that did this family move away from Kansas, Mr. Martin? A Yes, sir, moved away sometime after that.

Q Have you any knowledge as to where they went? A No, sir, only I heard that there was some parties from the Territory was going to come up and did come up, and moved them down here.

Q You heard that; well now, was that after the boys were shot? A Yes, sir.

Q And they went away from the neighborhood then? A Yes, sir.

Q Now when was it you first got acquainted with Betsy Rider and these boys and girls? A '65; June, '65.

Q After you got acquainted with them how near did they live to you at any of the time or all of the time up to this shooting? A Well they lived right there in town where I lived sometime, and probably two or three miles out in the country part of the time.

Q Were they living in the country or town when this trouble came up between Snider and these boys? A Town, living across a block and a street from where I was living--no, I am mistaken about that, I was living in the country at that time on a farm. I had been living a block and a street from where they were living when they were shot.

MR. WELLETTE: Do you know the applicant here, Josie Alberty?

A Well, I knew a Josie there, I guess they are the same; I don't know her by that name though.

Q Well, do you know whether this Josie you are talking about is the applicant in this case? A No, sir, I haven't seen her since she came away from there; don't know whether she is the applicant or not.

Q Where was this Josie in '68? A Why she was living there.

Q Did you watch her all the time? A Oh, no, I didn't watch her all the time.

Q You don't know whether she left there for any time or not and returned, do you? A Well, I never knew of her being away.

Q Well, you didn't pay any particular attention to her, did you? A No, sir, I never did.

Q What county do you live in in Kansas? A I live in Miami County.

Q How far is that from the Kansas line? A From the east line?

Q From the Cherokee line? A Well, right due south of Ossawatimie is about 120 miles from the Cherokee line.

Q Well, you knew of these people living in that country now, and you didn't pay special attention to them, and yet at this date, thirty-five years ago, you could remember just whether they were absent for a month or two at a time or not, could you? A Well, I couldn't say as to that; but I never knew of their being absent.

Q Well, would you likely remember it at this time now? A If they were absent?

Q Would you remember? A I think I would.

Q You could remember now thirty-five years ago? A If I had known of their being absent.

Q Well, but what would have impressed it on your mind, the fact of them being away from there? A Why simply the fact of their going from the neighborhood.

Q But then they might have been absent without your knowing anything about it, couldn't they? A Possibly, yes, sir.

Q You don't know about that? A No.

Q Well, when were you first spoken to about the time and asked as to whether you remembered about these people or not? A In this case?

Q Yes, sir. A About three weeks ago.

Q You hadn't thought very much about these people up to that time? A I hadn't paid any attention.

Q Hadn't paid any attention to them? A No, sir.

Q And then you remembered thirty-five years back and attempt to locate these people every month in the year? A No, sir.

Q Don't pretend to do that? A Don't pretend to locate them every month in the year, but I used to see them frequently all this time.

Q You can't remember now just how often you saw them? A No, sir, sometimes I used to see them every day, and then maybe I wouldn't see them for a week.

Q They weren't particular associates of yours? A No, sir.

R. W. DUNCAN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A R. W. Duncan.

Q Where do you live, Mr. Duncan? A I live on the Pottawatomie.

Q What is your postoffice? A Ossawatimie.

Q Kansas? A Yes, sir.

Q How long have you lived in and around the neighborhood of Ossawatimie, Kansas? A Well, about 35 or 6 years.

Q Where were you living at the close of the war? A At Ossawatimie; that is, on a farm in Ossawatimie Township, close to Ossawatimie.

Q While you was living there after the close of the war did you know a colored woman by the name of Rider, and family? A Yes, sir.

Q Do you know what her first name was? A Betsy Rider.

Q Do you know whether or not she had any children of her own that went by her name? A Yes, sir.

Q What were their names? A The oldest one's name is Julius or something like that; it's been a long time for a person to recollect anything they saw without a written memory without they were interested in it.

Q Well, give the names, if you remember them; if you don't why--

A And I think then there was one named Josephine if I ain't mistaken.

Q Well, were there any others? A Yes, sir, there was two boys, George and Henry.

Q How long did they live in your neighborhood or near you after you became acquainted with them, Mr. Duncan? A Well they lived there for I guess as much as six or seven years anyhow.

Q How far from you did they live? A Well, in the neighborhood of betwixt three and four miles.

Q Do you remember anything about the boys having any trouble at any time, or were you living there in that country at that time?

A Yes, sir.

Q Do you know what the trouble was as to whether anybody was hurt or not? A Well, yes, sir, they were both hurt, but one was hurt worse than the other.

Q Well, now, who was it that was hurt? A The worst?

Q Who were the parties? A Why George and Henry.

Q Who? A Rider they called them.

Q Do you know by whom they were hurt? A Well, as I understood it a man by the name of John Snider.

Q Well now was their mother and them still living there in the neighborhood where you had known them at the time they were hurt?

A I think they was.

Q Well do you know, Mr. Duncan, is what I want to get; do you know whether or not they were living there in the country at that time?

A Yes, sir, I know that.

Q Well, now do you know what year that trouble occurred? A Well as near as my recollection, as near as I can recollect, I think it was somewhere along either about '69 or about '70.

Q You remember when that was; you know that they were living there in the country when the trouble occurred? That was what I have reference to.

MR. BELLEFLE: You think it was about '70? A Somewheres along there that that occurred.

Q Well, your recollection is not very good about these things that occurred thirty-five years ago? A No, sir, it's not.

Q A man can't do it? A No, sir, not good.

Q When did you first get acquainted with these people? A Why when I first got to Kansas.

Q When was that? A That was in '64, I think, or '5.

Q You don't remember just what date you went there? A No, sir, I don't.

Q Then you were acquainted with them some three or four years?

A Yes, sir.

Q They left there soon after you say that they had some trouble there? A Well, yes, sir, I think they did.

Q Now you don't know whether they made trips down here to the Territory or not? A Well, no; I don't just know about that.

Q You can't tell whether they came down to this country and back or not? A I know there was some come away, and some couldn't get away,

-4-

and some of them that did come why they killed some of them on the road or shot them, some got back to home, and they was almost afeard to try to come, and there was some so poor that they couldn't come.

Q But your recollection as to days and years is very ~~xxxxxxxxxx~~ indefinite at this time, isn't it? A Yes, sir, it is to tell the truth about it; I can't recollect very well; I have been shot in the head and I'm getting old.

Q How old are you? A Well, to tell the truth, I'm like lots of other people, I don't know my exact age to a day; I was sold the day before Buchanan three months election and as near as I can recollect I was 27 years old in June before that; the man that sold me and he did sell me, the man that fetched me to Southwest Missouri wanted a boy then, that was my young master, and the man that cried me said I was sixteen years old.

Q Slight difference then? A Yes, sir.

Q You're not very well posted on days or dates are you? A No, I ain't now.

COMMISSION: This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-915, D-918, and D-970, the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of April, 1902.

J. H. Renter
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

George Rider, D 915;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to.

~~in the case of Moses Whitnire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.~~

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rotherberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

C. W. McR.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Josie Alberty et al., as Cherokee Freedmen, consolidating the
applications of:

Josie Alberty, et al.,
George Rider,
Henry Rider, et al.,

Cherokee Freedmen D-870,
Cherokee Freedmen D-915,
Cherokee Freedmen D-918.

-: D E C I S I O N :-

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Josie Alberty for herself and her minor child, Easter Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Carlos, Flora B. and Luellen Rider.

The evidence shows that the applicants, Josie Alberty, George Rider and Henry Rider, are the children of Henry and Eliza-beth Rider, who were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion the applicants, Josie Alberty, George Rider and Henry Rider, were taken to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation. The applicant, Easter Alberty, is the minor daughter of Josie Alberty and possesses no rights to enrollment except through her said mother. The applicants, Carlos, Flora B. and Luellen Rider are the minor children of Henry Rider, and claim the right to enrollment through their said father, their mother, Martha Rider, possessing no rights as a Cherokee Freedman.

Neither of the applicants herein is identified on the 1880 authenticated Cherokee Tribal roll.

It is, therefore, the opinion of this Commission that the application for the enrollment of Josie Alberty, Easter Alberty, George Rider, Henry Rider, Carlos Rider, Flora B. Rider and Luellen

Rider, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

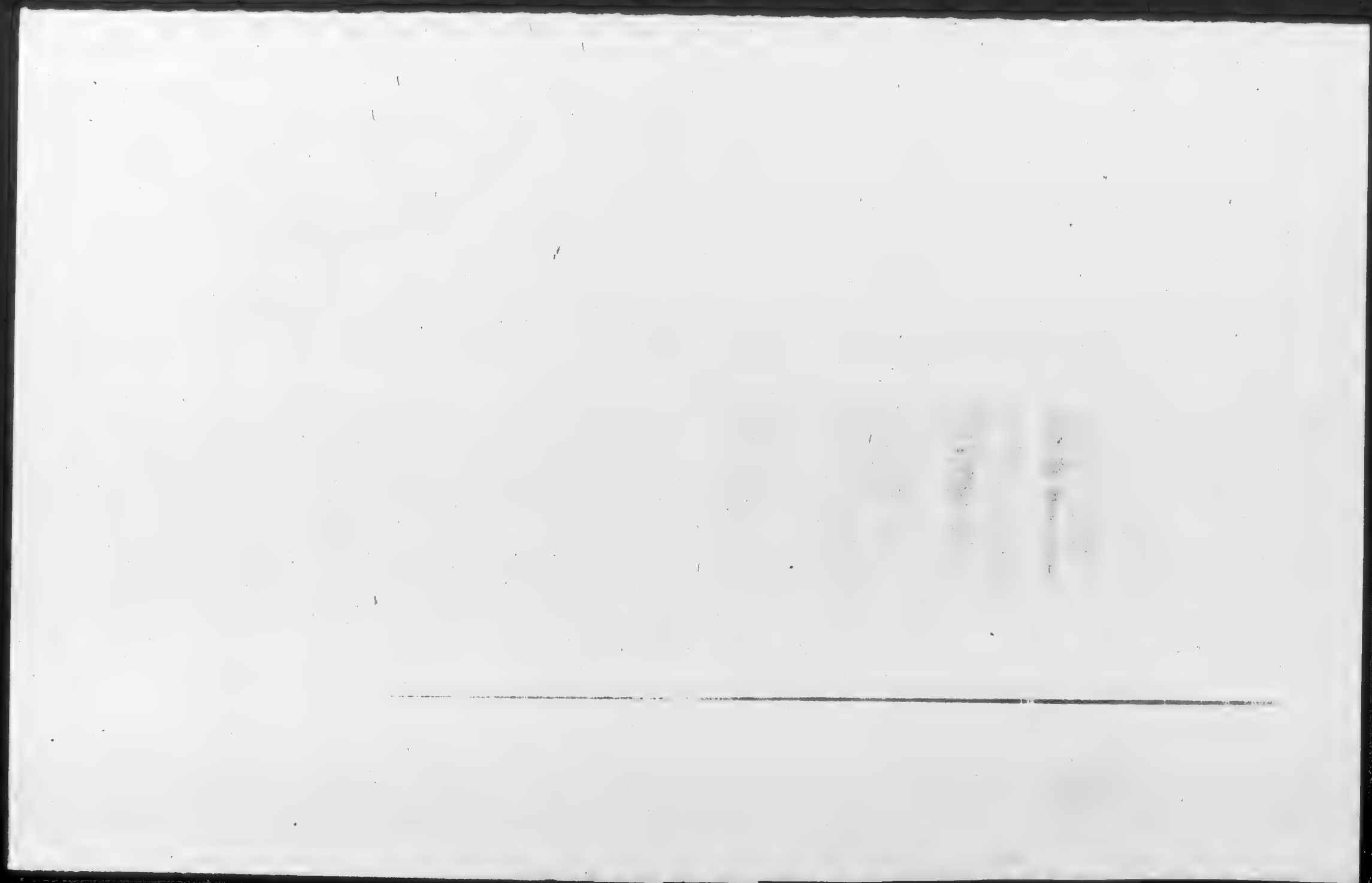
COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breekinridge
Commissioner.

Muskogee, Indian Territory,
this Jan 10 1905



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ADMISSION TO THE FIVE CIVILIZED SOCIETIES

FILED

MAR 24 1902

[Handwritten Signature]

ACTING CHAIRMAN

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. George Rider,
Lenapah, I. T.

Cherokee F-D-915

Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

(C O P Y)

Cherokee Freedman
D-915.

Muskogee, Indian Territory, January 10, 1905.

George Rider,

Lenapah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting, among others, the application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, with a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(Signed) Tams Bixby,

Chairman.

Encl. L-82.

Register.

COPY.

Cherokee Freedman
D-870 et al.

Muskogee, Indian Territory, January 10, 1908.

Edgar Smith,

Attorney for Josie Alberty et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting the applications for the enrollment of Josie and Easter Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. L-84.

(SIGNED) *Tame Bixby.*
Chairman.

COPY.

Cherokee Freedmen
D-870 et al.

Muskogee, Indian Territory, January 10, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting the applications for the enrollment of Josie and Easter Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. L-95.

(SIGNED). *Tame Bixby.*
Chairman.

COPY.

Cherokee Freedmen
D-870 et al.

Muskogee, Indian Territory, January 10, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Josie Alberty et al., as Cherokee Freedmen, including the Commission's decision, dated January 10, 1905, rejecting said application.

Respectfully,

Encl. L-85.

(SIGNED) *Tams Bixby.*
Chairman.

Through the
Commissioner of Indian Affairs.

Y. P.
YHE.

D. C. 9040-1905. DEPARTMENT OF THE INTERIOR,

I. T. D. 1704-1905.

WASHINGTON. February 18, 1905.

L. R. S.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department does not find with the record in the Cherokee Freedman case of Josie Alberty, et al., received with your letter of January 10, 1905, any evidence of service of notice of your decision upon the applicants.

It is requested that you inform the Department when and in what manner you gave notice of such decision.

Respectfully,

(Signed) Thos. Ryan

Acting Secretary.

Refer in reply
to the following:
Land
3408-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 15, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated January 10, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Josie Alberty for herself and her minor child, Baster Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Charles, Flora B., and Luella Rider.

January 10, 1905, the Commission decided adversely to all the applicants.

The record shows that the principal applicants, Josie Alberty, George Rider and Henry Rider are the children of Henry and Elizabeth Rider who were slaves of Cherokee citizens at the beginning of the war of the rebellion; that during said war the principal applicants were taken out of the Cherokee Nation and did not return thereto on or before February 11, 1867. The minor applicants possess no rights except through their respective parents, the principal applicants.

None of the applicants is identified on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

C. F. Larrabee
Acting Commissioner.

H.M.W.
W.

COPY.

Cherokee Freedmen
D-870 et al.

915-948

Muskogee, Indian Territory, March 3, 1905.

The Honorable

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 18, 1905 (I.T.D. 1704-1905), there are herewith inclosed copies of the Commission's letters, dated January 10, 1905, to the applicants and their attorney, transmitting to them copies of the Commission's decision of that date in the matter of the application for the enrollment of Josie Alberty et al., as Cherokee freedmen.

Respectfully,

Encl. L-16.

(SIGNED).

O. R. Breckinridge.

Commissioner in Charge.

(copy)

J.R.W.
W.C.P.
S.V.P.

I.T.D.
1704-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
WASHINGTON.

October 5, 1905.

The Secretary of the Interior,

Sir:

I am in receipt by reference of August 3, 1905, with request for my opinion thereon, of the record in the case of application by Josie Alberty, George Rider, and Henry Rider, for their own enrollment and enrollment of Easter Alberty, daughter of Josie, Carlos, Flora B., and Luella Rider, children of Henry, minors, as Cherokee freedmen.

The three principal applicants are children of Henry Rider and his wife Betay, or Elizabeth, May, who were both slaves of Cherokee citizens at the outbreak of the war of the rebellion. The principal applicants, according to the testimony, June 1901, were aged, respectively, forty-three, forty, and thirty-nine years, being born in the Cherokee Nation about 1858, 1861, and 1862. During the war they, being minors, were taken out of the Cherokee Nation to Kansas and lived there apparently with their mother until 1876, when their father came from the nation and took them with him into the nation, to which he had returned in the fall of 1868, after being taken

south by his master during the war. They ever since remained in the nation. The applicants' father, Henry Rider, is identified on the 1880 authenticated roll of Cherokee freedmen; none of the principal applicants is thereon identified, nor on the Kerns-Clifton roll; all the principal applicants are identified on the Wallace roll; Baster is identified upon the 1896 census roll.

The Commission to the Five Civilized Tribes, for failure of the principal applicants to effect a physical return to the nation until after February 11, 1867, denied enrollment of all the applicants. The Indian Office, February 15, 1905, recommended affirmance of that action.

In my opinion of March 22, 1904, (I. T. D. 641, 1904), construing this provision of the treaty, for reasons then given, I expressed the opinion that:

It is thus clear that resident was not intended to be used in the restricted sense of actual presence in the territory, but in the sense equivalent to legal residence or domicile, and the provision was intended to operate to the benefit of the persons, or classes, described whose legal domicile was in the Cherokee Nation.

This has been followed in the case of Charles Foreman (I.T.D. 6276-1903); Burrell Daniels (I.T.D. 1706-1905); opinions of April 16, 1904, and May 9, 1905, and other cases wherein this principle determined the question as presented to me.

In the present case the family was separated by the casualties of war, but the family relation was not dissolved, nor were the duties and rights arising as incident to it anywise changed. The head of the family when emancipation occurred was Henry Rider, the father. He had been carried south, while the remainder of the family drifted north to Kansas. Henry Rider, in due time under the treaty-- in fact, over a year prior to the date of the treaty -- returned to the nation, established himself there, and resided there until his death, April 19, 1861. He did not recover the actual custody and physical return of his children to the territory until 1876, but the fact that he then did recover them presumptively shows that he had not tried to cast off his legal obligation, if, indeed, he could have done so to prejudice of their rights. As he had neither emancipated his minor children nor abandoned his legal right, the result follows that his domicile was theirs, and that when he was domiciled in, and resident of, the territory, their legal domicile was there. Before their minority ceased, so that they could choose a domicile, their actual residence was established, and has ever since been maintained in the nation,. I am therefore of opinion that the Commission erred, and that the applicants are

entitled to be enrolled.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved:

October 8, 1908.

E. A. Hitchcock,

Secretary.

Y.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON,

LLB

I.T.D.1704-1905.

October 10, 1905.

LRB

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

There is inclosed herewith a copy of an opinion of the Assistant Attorney-general of October 5, 1905, in the matter of the application of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider for their enrollment as Cherokee freedmen.

In accordance with said opinion, the decision of the Commission to the Five Civilized Tribes, adverse to the claimants, is hereby overruled, and you are authorized to enroll the applicants.

A copy of the Indian Office letter of February 15, 1905, (Land 3408), in which it is recommended that the Commission's decision be approved, is inclosed.

Respectfully,

(Signed) E. A. Hitchcock.

2 inclosures.

Secretary.

Muskogee, Ind. Ter., October 17, 1903.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith inclosed protest of the
Cherokee Nation against the motion to reopen the
Cherokee freedmen case of Henry Rider, et al., G. F. D. 918.

Yours very truly,

Bell, Hastings & Davenport

H.M.V.

Attorneys for the Cherokee Nation.

Through the
Commissioner of Indian Affairs.

G.A.W.

Land:
84146-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 24, 1905.

The Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

Referring to Department letter of October 10, 1905 (I.T.D. 1704-1905) there is enclosed a letter from the attorneys of the Cherokee Nation transmitting the protest of the Nation against the motion to reopen the Cherokee Freedmen case of Henry Rider et al.

The Department by letter referred to, in accordance with an opinion of the Assistant Attorney General of October 5, 1905, authorized you "to enroll the applicants."

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.M.M. (W)

Muskogee, Indian Territory, November 6, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

On October 10, 1905 (I. T. D. 1704-1905), the Department transmitted to this office an approved opinion of the Assistant Attorney General under date of October 5, 1905, in the matter of the application for enrollment as Cherokee freedmen of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider, and in accordance with said opinion over-ruled the decision of the Commission to the Five Civilized Tribes adverse to the claimants, and authorized this office to enroll the applicants.

The question involved in this case is the same as in the application of Burrell Daniels, et al., for enrollment as Cherokee freedmen (I. T. D. 1706-1905), and in which case this office takes issue with the views of the Assistant Attorney General as expressed in his opinion of May 9, 1905, and has addressed to the Department a letter under date of September 25, 1905, asking that the approval of the opinion of the Assistant Attorney General be reconsidered.

The action of the Department upon the letter of the Commissioner to the Five Civilized Tribes of September 25, 1905,

has not yet been made known to this office.

It is respectfully recommended that until Departmental action shall have been had upon this letter this office be authorized to withhold the names of Josie and Master Alberty, George, Henry, Charles, Flora B., and Luella Rider from schedules to be transmitted for the approval of the Secretary of the Interior constituting a part of the final roll of Cherokee freedmen.

Respectfully,

Commissioner.

GHL

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

D-870, et al.

Muskogee, Indian Territory, December 21, 1905.

J. J. Bulger,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt, by reference of the Secretary of the Interior, of your letter of December 8, referring to the Cherokee Freedmen enrollment case of Josie Alberty, et al., and asking to be furnished a copy of an approved opinion of the Assistant Attorney General for the Interior Department in said case.

In reply you are advised that on October 10, 1905, the Department transmitted an approved opinion of the Assistant Attorney General, dated October 5, 1905, in the matter of the application for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion overruled the decision of the Commission to the Five Civilized Tribes adverse to the applicants and authorized this office to enroll them.

The question involved in the Alberty case is the same as in another freedmen application for enrollment, in which this office takes issue with the views expressed by the Assistant Attorney General, and under date of September 25, 1905, asked that the approval of the former opinion of the Assistant Attorney General be reconsidered.

Under date of November 6, 1908, this office recommended that until Departmental action upon this office letter with reference to the former opinion of the Assistant Attorney General shall have been had, this office be authorized to withhold the names of the applicants included in the Cherokee Freedmen enrollment case of Josie Alberty, et al., from a schedule to be transmitted for the approval of the Secretary of the Interior.

As the question involved in this case is the same as that which this office has recommended be reconsidered by the Department, it is not deemed advisable to give notice of the Department's decision until the Department shall have acted on this office request for authority to hold in abeyance said decision until the question involved shall have been considered in accordance with the views of this office expressed in its letter of September 25, referred to.

Respectfully,

LS

Commissioner.

D. C. 5403-1906.

I.T.D. 8563-1905.

13206- "

LRS

Y. P.
FHE.

SECRETARY'S OFFICE
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

February 7, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohan, the latter of this city, September 7, 1905, in the cases of Henry Rider, et al., Josie Rider, et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

D. C. 3554-1906.
I.T.D. 8805-1905.
13206- "
LRS

Y. P.
FHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

January 24, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Muskogee, Indian Territory, June 26, 1906

The Commissioner
of Indian Affairs.

Sir:

On October 10, 1905 (I.T.D. 1704-1905), the Department transmitted to this office an approved opinion of the Assistant Attorney General for the Interior Department, dated October 5, 1905, in the matter of the applications for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion reversed the decision of the Commission adverse to the applicants and authorized this office to enroll them.

On November 6, 1905, this office requested authority of the Department to withhold the names of the applicants in said case from schedules to be transmitted for the approval of the Department, until the questions involved in the Cherokee Freedman enrollment case of Burrell Daniels et al. (I.T.D. 1706-05), shall have been passed upon. As yet no action has been taken by the Department in the Daniels case, and no further action has been taken in the Alberty case.

Commissioner-42

The Indian Office in letter to this office of October 24, 1905 (Land 84146-1905), referring to the Department's letter of October 10, 1905 (I.T.D. 1704-1905), enclosed a letter from the attorneys for the Cherokee Nation transmitting a protest against a motion to reopen the case of Henry Rider, et al. The Nation's reply is enclosed herewith for consideration in connection with the case.

Attention is also called to the Department's letter of February 7, 1906 (I.T.D. 8563, 13206-1905), referring to said cases, stating that "a motion filed by Blue & Bulger and McGowan, Serven & Mohun, the latter of this city (Washington, D.C), September 7, 1905, in the cases of Henry Rider, et al., Josie Rider et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration, and has been sent to the Indian Office to be filed with the papers in the case."

Respectfully,

L M B.

Encl. B-73

Commissioner

Muskegee, Indian Territory, August 22, 1906.

The Commissioner
of Indian Affairs,
Washington, D.C.

Sir:

June 26, 1906, this office, referring to Indian Office letter of October 24, 1905 (Land 84146-1905), and to Departmental letter of October 10, 1905 (I.T.D. 1704-1905), returned a letter from the Attorneys for the Cherokee Nation, transmitting a pretest against a motion to reopen the Cherokee Freedmen case of Henry Rider et al., which letter and pretest was transmitted to this office with Indian Office letter of October 24. Attention was invited to the Department's letter of February 7, 1906 (I.T.D. 8563, 13206-1905) addressed to this office, referring to the Cherokee freedman case of Jessie Alberty, et al., with which was consolidated the case of Henry Rider et al., and stating that there had been filed on September 7, 1905, by Blue and Bulger and McGowan, Serren and Mohun, a motion for review of said case, and that as the decision of the Commission to the Five Civilized Tribes rejecting the applicants

Commissioner--2

in said case was overruled by the Department on October 10, 1905, the motion "does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

The motion referred to by the Department seems to have been inadvertently transmitted to this office with the Department's letter of January 24, 1906 (I.T.D. 8805, 13206-1905), which letter is as follows:

"The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty et al., a motion filed by Blue & Bulger, and McGowan, Serren & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

Said motion is returned herewith for proper consideration.

Respectfully,

Commissioner.

Incl. B-1
L M B

Copy.

Muskegee, Indian Territory, February 28, 1907

Direct

Special

The Honorable,

The Secretary of the Interior.

Dear Sir:

October 10, 1905 (ITD 1704-1905), the Department transmitted to this office a copy of an approved opinion of the Assistant Attorney General of October 5, 1905, in the matter of the application for the enrollment of Josie Alberty, et al., as Cherokee freedmen, and in accordance therewith overruled the decision of the Commission to the Five Civilized Tribes adverse to Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider.

On November 6, 1905, the Commissioner reported that the question involved in the case of Josie Alberty, et al., is the same as in the Cherokee freedman case of Burrell Daniels, et al., which case was the subject of an opinion of the Assistant Attorney General approved by the Department (ITD 1706-1905), and as the Commissioner on September 25, 1905, requested that said Daniels case be reconsidered, it was recommended that until the Department had acted upon this request for a reconsideration of the Daniels case, he be authorized to withhold the names of the applicants in the case of Josie Alberty, et al., from schedules to be transmitted for the ap-

preval of the Department, until his said request had been acted on. This office has not been advised of any further action taken by the Department in the case of Burrell Daniels, et al.

In view of the record in the case and of Section three of the Act of Congress approved April 26, 1906, (34 Stat. 137), it is respectfully recommended that the Department rescind its decision of October 10, 1905, and that the applications for the enrollment of the applicants embraced in the case of Jessie Alberty and others, be denied.

There is inclosed, for Departmental approval in the event it adheres to its said decision of October 10, 1905, a schedule containing the names of these applicants.

Respectfully,

Commissioner.

D.C. 13353-1907.

J.P.
W.H.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 16216-1906.

March 4, 1907.

LRS

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Following the instructions to you of even date relative to Henry Rider, et al., applicants for enrollment as Cherokee freedmen, you are directed to also enroll George Rider, Josie Alberty and Baster Alberty.

The matter of the enrollment of these parties was the subject of your letter of November 6, 1905. Your letter of that date has been sent to the Indian Office, with a copy hereof.

Respectfully,

(Signed) Jesse E. Wilson
Assistant Secretary.

1 enclosure, and
copy hereof, to Ind.Of.

(C O P Y)

Y.P.
JHE

D. C. 15429-1907
I.T.D. 7966-1907

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 4, 1907

DIRECT
L R S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the opinion of the Assistant Attorney General in the matter of the application of Josie Alberty et al., for enrollment as Cherokee freedmen, the schedule containing the names of the parties, received with your letter of February 28, 1907, is approved, notwithstanding your suggestion that the parties should not be enrolled.

The Department has communicated with you in regard to this matter. The schedule will be disposed of in the usual manner.

Respectfully,

(Signed) E. A. HITCHCOCK
Secretary

2 inc. and
1 for Ind. Of. with
copy hereof.

A. F. No.
3-5-07.

(COPY)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Washington, D. C., March 14, 1907.

Commissioner to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed Departmental letter of March 4, 1907 (I T D 7966-1907), relative to the schedule prepared by your office, containing the names of Josie Alberty, et al., for enrollment as Cherokee freedmen, and which was the subject of your letter of February 28, 1907.

When the parties included in said schedule were ordered enrolled they were placed on a schedule prepared by your representatives at Washington, opposite numbers 4235 to 4241 inclusive, the schedule being approved March 4, 1907.

When this duplicate enrollment was discovered the copies prepared by you were returned to the Department unnumbered for such action as the Department may consider necessary.

Respectfully,

(Signed) A. P. McGarr.

Enclosure.

B.C. 17134-1907

J.P.

DEPARTMENT OF THE INTERIOR,

LES

WASHINGTON.

I.T.D. 7966-1907
8590-

March 19, 1907.

LES

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

In communication of March 13, 1907, your representative here, Mr. McGarr, called attention to the fact that the Department on March 4, 1907, approved a schedule of Cherokee freedmen, without numbers, containing the names of Jessie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider, which schedule was prepared by you and submitted with your letter of February 28, 1907.

Previous to the receipt of this schedule the Department had approved a schedule prepared by Mr. McGarr in accordance with departmental letter to you of March 4, 1907, bearing the names of such persons, opposite Nos. 4235 to 4241, inclusive.

The schedule prepared by you being superfluous, its approval has been cancelled.

A copy of the letter of your representative of March 13, 1907, has been sent to the Indian Office; also copy of departmental letter of March 4, 1907, first written, under which the roll was prepared.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

Through COM. of Ind. Aff.
2 inc. to Ind. Off.

Cherokee F.D.
915

COPY

Muskegee, Indian Territory, March 21, 1907.

George Rider,

Lenapah, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of yourself and others as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *John*

Enc I-626

Commissioner.

KPI

Cherokee D870

COPY

Muskogee, Indian Territory, March 21, 1907.

Starr & Patten,

Attorneys for George Rider, et al.,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the application for the enrollment of George Rider, et al., as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *James S. Smith*

Enc I-613.

Commissioner.

RPI

Cherokee DS70

COPY

Muskogee, Indian Territory, March 21, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of George Rider, et al, as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams*

Enc I-613 | ✓

Commissioner.

KPI

Cher Fr 1564

Trans. from Cher Fr D870

see Cher Fr D915 and 918

Cher Fr 1564

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 26th, 1901.

In the matter of the application of Josie Alberty for the enrollment of herself and child as Cherokee Freedmen; said Alberty being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Messrs. Mellette & Smith, for Applicants.
Mr. W. W. Hastings, for Cherokee Nation.

- Q What is your name? A Josie Alberty.
Q How old are you? A I guess I am about 43.
Q What is your post office? A Len apah.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Have you ever applied to be enrolled by any other Nation or tribe?
A No, sir.
Q Who do you want to enroll besides yourself? A My daughter,
Easter Alberty.
Q How old is she? A 16.
Q Any one else? A No, sir.
Q Are you married? A I have been my husband is dead.
Q Was your husband named Alberty? A Josh Alberty.

BY MR. SMITH:

- Q Where do you live? A Up in Gooseneck bend.
Q Is that in the Cherokee Nation? A Yes, sir.
Q How long have you lived there? A All my life.
Q How old are you you say? A My parents tell me I was three
years old before the war; I was born two weeks before Christmas
they said and that is all I can go by; but the way I can guess it
I think I am about 43 years old.
Q Do you have any recollection of yourself as to when you came
back to the Cherokee Nation after the war or who took you out?
A I don't remember anything much about it.
Q You don't remember? A No, sir.
Q You say you have been living there ever since you can remember
where you are living now? A Not altogether, I have been to
different places after the war.
Q Have you any farm in the Cherokee Nation? A Yes, sir.
Q Where? A Right on the Bend of Gooseneck.
Q How long have you had it? A Ever since I have been married.
Q How long is that? A I married in '83, Josh Alberty.

BY MR. HASTINGS:

- Q What was your father's name? A Henry Rider.
Q And what was your mother's name? A Betsey May.
Q You don't remember before the war? A No, sir.
Q You don't remember coming back here? A No, sir.
Q Now, with whom did you live when you can first remember?
A I can't remember half of the people.
Q Who were you living with, where was you home? A On Brushy.
Q How far was that from Chouteau? A I don't know.
Q How long did you stay there? A Good while.
Q Well, how old were you when you left there? A I was single
woman.
Q Well, did you stay there until you were married? A No, I
married up here, my father moved here, he moved up here on the
river.
Q Well, did you stay there with your father on Brushy?
A Yes, sir, he went and got us after the war.
Q Before he moved? A Yes, sir.
Q Just before he moved from Brushy? A Yes, sir.
Q How long did you stay down there at Brushy before you moved?
A I can't tell you.
Q You will have to tell me something about how long now, did
you stay there the year before your father moved up to Brushy?

Josie Alberty, et al.--2.

A It might have been two or three years.
Q Might it have been less? A No, sir, it may have been more.
Q You were about grown when you left there? A Yes, sir, I was about 14 or 15.
Q What kind of a house did you live in? A Little old log house.
Q Who were your neighbors down there? A I can't remember any of the names.
Q Well, any of them? A There is uncle Jim Rider, uncle Lige.
Q Jerry Alberty living down there? A Away below there.
Q Was any Cherokees living around in that country? A Yes, sir.
Q What were their names? A I don't know any one but Bill Sunday and Jim Sunday.
Q About what year did your father move away from down there?
A I could not tell that.
Q But you were about 14 or 15 years old? A Yes, sir.
Q I am trying to get your best judgment about how long you remained down there before you moved away? A I could not guess at it.
Q You have got no judgment at all as to that? A I wasn't grown when my father come up from the south and got us.
Q Your father come up here and got you? A Yes, sir, got mother one Sunday and my father went south and got three of us children.
Q Was ~~xxxx~~ old man Joel Bryant living down there when you came there? A I don't remember.
Q Do you remember R. W. Lindsey? A I think, I think my owners did I ain't certain.
Q What town were you living in in Kansas when your father come up after you? A Little town we used to call Indianapolis.
Q Do you know what other towns were anywheres near it?
A They say there ain't none now in Osawatimie now.
Q Who did you live with up there? A Stayed with my mother.
Q Where were you married? A Here in Cooseneck.
Q And your husband is named Josh Alberty? A Yes, sir, I am his second wife; I married him in '83.
Q You went back to Kansas after you came down here with your father? A No.
Q Never been back up there? A Oh, I have been back lots of times but not to stay.
Q How long did you ever stay up there? A I never stayd there but just a little while at the time.
Q Did you apply to the Kern-Clifton Commission for enrollment?
A Yes, sir.
Q Under what name? A Josie Alberty, or Josie Wright, but I didn't get any money, but the Wallace roll I got.

The 1880 Authenticated Roll, the 1896 Census Roll and the Kern, Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicants not found thereon.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant identified thereon, page 183, #341, Josie Alberty, no district given.

BY COM'R NEEDLES:

Q How did you say you drew money on the Kern-Clifton roll for Master? A Yes, sir.
Q What was your mother's name? A Betsey May.
Q Betsey May living? A Yes, sir.
Q Your father living? A No, sir, he is dead; Henry Rider, is dead.

The 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant's child found thereon, page 395, #32, Master Alberty, Cooseneck District.

BY MR. HASTINGS:

Q How many sisters come back with you? A My father, there was just three of us he went after, two boys and one girl.

Josie Alberty, et al.--3.

- Q When did you first see Lewis Daniels? A First saw Lewis ever since I got back here.
- Q Where did you first see Lewis? A In the Nation.
- Q On Big Creek? A No, sir.
- Q Where? A I don't know.
- Q Just met him in the road? A No, sir, some big place.
- Q You don't remember? A No, sir, my father had him with him.
- Q Your three sisters with you? A No, sir.
- Q Your mother? A There wasn't none of them.
- Q Just you and your father along? A Yes, sir.
- Q You remember seeing him there? A Yes, sir.
- Q Where did you first see Katie Vann? A I used to stay with Katie.
- Q Before the war? A Before the war.
- Q When did you see her after the war? A Shortly after I came here.
- Q Where? A She was living in below here.
- Q Where? A I could not name the place.
- Q What district was it in? A Geeweenaw I suppose.
- Q Was it in Booseneck? A No, sir, below.
- Q Down here on Grand river? A Yes, sir.
- Q On what side of Grand river? A I could not tell the sides of the river now if I would go there.
- Q How long was it after you came back until you saw her? A Ever since I remember myself I saw her.
- Q How long is that after you got back? A I could not tell you that.
- Q As much as seven years? A I could not tell.
- Q Twenty?

Objected to by Attorney for Applicant for the reason that applicant does not know.

Com'r Needles: She says she does not know.

L. D. DANIELS, being duly sworn, by Commissioner T. B. Needles, testified as follows: BY MR. SMITH:

- Q State your name? A L. D. Daniels.
- Q How old are you? A 56; post office Claremore.
- Q Do you know this applicant, Josie Alberty? A Yes, sir.
- Q Do you know her mother? A Yes, sir.
- Q What was her mother's name? A Oh, I know her good but I can't call her name right now; she lives right by me there, I can't think of her name now.
- Q Did you know her father? A Yes, sir, he was my uncle, Henry Rider.
- Q How long have you known this girl? A I have known her ever since '76.
- Q Where was she when you first knew her? A On the Verdigris river, Cherokee Nation; up here where she is living now.
- Q Who was she with? A Henry Rider, her father.
- Q Were you or were you not acquainted with Henry Rider before the war? A Yes, sir.
- Q Were you acquainted with this girl's mother? A No, sir, I wasn't acquainted with her mother.
- Q Was Henry Rider a slave? A Yes, sir.
- Q To whom did she belong? A Tom Rider.
- Q Was Tom Rider a Cherokee Indian? A Yes, sir, he was.
- Q Was he a citizen of the Cherokee Nation? A Yes, sir.
- Q Where was Tom Rider living at the time the war commenced? A On Grand river.
- Q In the Cherokee Nation? A Yes, sir.
- Q Where was Henry Rider? A Henry was there, same place.
- Q Do you know whether Henry was taken out of the Nation or whether he went out during the war? A Yes, sir.
- Q Well, did he go out? A Yes, sir.

Josie Alberty, et al.—4.

Q Do you know when he returned to the Cherokee Nation?

A Yes, sir.

Q When? A He returned the fall of '65.

Q Where did he come to? A Right there at Fort Gibson, sir.

Q Is he living or dead? A He is dead.

Q How long has he been dead? A He has been dead near about 18 or 19 years, about 18 I think, somewhere along there; I believe he died in '89. If I mistake not, I think he did.

Q Well, where did this man Henry Rider locate after coming, what became of him after you knew him in 1865? A He moved up here on Bruchy, sir, about 25 miles from Fort Gibson.

Q Is in the Cherokee Nation? A Cherokee Nation, three miles from Cheuteau Station, east of the station.

Q Well, at the time you knew him in '65 did he have any children with him? A No, sir, he didn't, he was there with Mr. Hicks, Dan Hicks there at Fort Gibson.

Q Well, now, did you know when Josie came back to the Cherokee Nation? A The first time I seen them I seen them in '76, Spring of '76.

Q Where were they when you saw them? A Right up here on the river known as Goosenek, Cherokee Nation.

Q Well, who did you see anybody besides Josie? A Henry and George of the same father and mother, so said to be.

Q Which was the oldest, this girl or the boys? A Josie.

Q How old did she appear to be at that time, about how large? A She looked to be about 14 or 15 years old.

Q Did you know how long they had been in the Cherokee Nation when you first saw them? A No, sir.

Q You don't know that? A No, sir.

Q Do you know of your own knowledge when these children were born? A No, sir.

Q Well, about how old did Henry, the boy, appear to be at that time? A He appeared to be.

Q You said this girl had two brothers? A Yes, sir.

Q What were their names? A Josie, George and Henry Alberty; Henry ~~was~~ I supposed seemed to be the youngest one.

Q How old did he seem to be? A He appeared to be about nine or ten.

Q And George was between the two, between Josie and Henry?

A No, George was older than Henry, he is next to Josie.

Q Is he younger or older than Josie? A He is younger than this girl.

Q Did she have any sisters? A Yew, sir, she has got sisters up there now that are living.

Q When did you first know her sisters? A I got acquainted with one of her sisters at Fort Gibson, the baby that is Charley Key's wife now, they called Hannah.

Q Is Hannah older or younger than Josie?

A She is younger I guess she is on the authenticated roll.

Q Younger you say? A Yes, sir, I guess she is younger, I don't know.

Q Well, any other sisters now besides Hannah? A Net Rider, she goes by the name of Net Scott now, on the roll it is Net Rider, and then she has got another sister by the name of Lena.

Q Are these last children you mention of different mothers?

A Yes, sir; one father.

Q Well, now do you know how many children Henry Rider had by this woman, Josie's mother? A Only three that I know of.

BY COM'R NEEDLES:

Q Did you know this girl's mother, Betsy? A Yes, sir.

Q Was she a slave? A I guess so, I didn't know of her being a slave, I just got acquainted with her since the surrender.

Q When was the first time you ever saw Betsy? A I saw Betsy near about the same time, it may have been a year after that.

Q After what? A After '76.

Josie Alberty, et al.--8.

Q You didn't see her at the time you saw Henry the first time?

A No, sir.

Q Betsy was his first wife? A Yes, sir.

Q And Betsy is the mother of Josie? A Yes, sir, Henry went South and Betsy went North.

Q You don't know whether Henry and Betsy were ever married or not?

A No, sir.

Q You don't know where Betsy was a slave or not? A No, sir.

BY MR. HASTINGS:

Q Now, L. D., when you knew Henry after the war he had another wife didn't he? A Mariah, yes, sir.

Q And he always lived with her as his wife, that is, after the war?

A Yes, sir.

Q And Mariah is the mother of these children you have mentioned here a while ago? A Mother of one.

Q Mother of Jenette? A Hannah.

Q Ain't Mariah the mother of Jenette or Jennie? A No, sir.

Q Who is the mother of Jennie? A Polly Rider.

Q What I mean this girl's mother is not the mother of any of these children you have mentioned a while ago? A No, sir.

Q And you never saw this girl and her mother since the war un til '76? A No, sir.

Q That is the first time you saw her? A Yes, sir.

Q Now, where has this girl been living since '76?

A Right over in the Cherokee Nation on Verdigris river in half a mile of my farm.

Q You never knew her mother before the war? A No, sir, I wasn't acquainted with her before the war.

JOSIE ALBERTY, the Applicant recalled: By Mr. Hastings:

Q Didn't you used to live at Iola, Kansas? A No, sir.

Q You come to Gooseneck Bend in 1874 from Iola, Kansas?

A No, sir.

Q Didn't you have a witness here named John Baldrige before?

A No, sir.

Q Is your mother named Betsy? A Yes, sir, I can tell you who my witnesses was, Eli Keys and Katie Vann and Hammer Brown.

Q Did you know a woman by the name of Louisa, have you got a sister by that name? A No, sir, I ain't got no other sisters.

Q Well, half sisters? A No, sir.

Q Do you know Louisa, Walter Mar and Ed Pigeon? A That's my half sister's children.

Q Then they are nephews of yourself? A Yes, sir, they is here now.

Q Where did your mother die? A My mother ain't dead she is living, she is not dead, she is living.

KATIE VANN, being first duly sworn, by Commissioner T.B.

Needles, testified as follows: BY MR. SMITH:

Q State your name? A Katie Vann.

Q How old are you? A 56 years old.

Q Where do you live? A Lenapah.

Q How long have you lived in the Cherokee Nation?

A Well, I was born and raised here and went out to Kansas during the war and come back here in '66.

Q Do you know this applicant, Josie Alberty? A Yes, sir.

Q Who was her father? A Henry Rider.

Q Who was her mother? A Betsy May.

Q Did you know her father and mother before the war?

A Yes, sir.

Q Was Betsy May a slave? A Yes, sir.

Q Who did she belong to? A Mrs. May, she was a widow May.

Q Was Mrs. May a Cherokee Indian? A Yes, sir.

Q Citizen of the Cherokee Nation? A Yes, sir.

Q Was Henry Rider a slave? A Yes, sir.

Jessie Alberty, et al.--6.

- Q Whom did he belong to? A Tom Rider.
Q Was Tom Rider a Cherokee Indian? A Yes, sir.
Q Where was he living at the time the war commenced?
A On Grand river.
Q Where did this girl's father and mother live at the time the war commenced? A He was living on Grand river.
Q Were they married in Slavery times? A Yes, sir, I wasn't at the wedding, but I heard about it, I could have been there they were married.
Q Do you know when Jessie was born? A No, sir, I don't recollect when she was born.
Q Was she born before the war? A Yes, sir.
Q Has Jessie any sisters or brothers? A Yes, sir.
Q What are their names? A George and Henry.
Q Are they older or younger? A They are younger she is the eldest.
Q Do you know whether George was born before the war or after?
A He was born before the war.
Q Do you know whether Henry was ~~born~~ born before or after the war or during the war? A He was born during the war, I guess, was a little baby when they went to Kansas.
Q Now, what became of the mother of Jessie here?
A She lives out on Verdigris.
Q What became of her during the war? A She went to Kansas.
Q What became of these children? A She had them with her.
Q What became of their father? A He went south.
Q Who did he go with? A Went with his owners I guess, Rider.
Q Do you know when the father, Henry, Rider, first returned to the Cherokee Nation after the war? A Yes, sir.
Q When? A In '66.
Q Do you know when these children, this applicant and her two brothers, George and Henry, returned? A It must have been in '75 or '76 somewhere along there.
Q With whom did they return? A I think he went after them if I ain't mistaken.
Q Who, Henry? A Yes, sir, their mother sent word by me when I started from Kansas for him to come after them.
Q Did you see them here in the Cherokee Nation at any time about the time you have mentioned did you say it was '75 or '6?
A Yes, sir.
Q Where did you see them? A Up on Verdigris, Booseneck Creek.
Q Who were they with? A I saw them there at their father's.
Q Do you know where Jessie this applicant has been living since that time? A She lived around there with her father and with Jess Vann's folks some until she married and she married Josh Alberty and lived out around places.
Q When did she marry Josh? A I guess about 15 or 16 years ago, I can't forget what year.
BY COM'R NEEDLES:
Q How old was Jessie when she returned in '76?
A I don't know.
Q Was she grown? A No, sir, she wasn't grown.
Q Well, when did her mother return, Betsey? A She come along about the same time.
Q She stayed there until that time? A Yes, sir.
Q Was Jessie ~~taken~~ taken to the Cherokee Nation born before the war?
A Yes, sir.
Q And was taken to Kansas and stayed there until '76?
A Yes, sir.
BY MR. HASTINGS:
Q Where did you live before the war? A I lived down on Grand river.
Q On which side? A On the east side.
Q How far from where Locust Grove is now?
A About four or five miles.
Q How far from you did this woman's mother live?

Josie Alberty, et al.--7.

A She lived about 12 miles above us up on Grand river.

Q How old were you when the war came up? A I guess I was about 18 or 19.

Q Do you ever remember especially of seeing this girl before the war? A Yes, sir.

Q How old did you take her to be then? A She was very small, I could not tell; she must have been four or five years old.

Q Where did Rider live before the war? A He lived at Rider's his master.

Q On which side of the river did they live? A On the west side.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of applicant's father found thereon, page 161, #8315, Henry Rider, Coowescoowee District.


COM'R NEEDLES: Josie Alberty applies for the enrollment or herself and her child, Easter. She avers that she is the child of Henry Rider by his wife, Betsy May, that Henry Rider was a slave as well as herself and taken out of the Cherokee Nation during the war. The evidence shows that Henry Rider returned to the Cherokee Nation in '65; further shows that the applicant did not return to the Cherokee Nation until the year 1876, that she has lived in the Cherokee Nation since that time. The evidence produced shows that the said Henry Rider was married to Betsy May, the mother of the applicant, and applicant returned in 1876 she was a child. Her name cannot be found upon any of the rolls of the Cherokee Nation except the Wallace roll and she is duly identified upon the Wallace roll. Her child, Easter, is duly identified upon the census roll of 1896; her father Henry Rider is duly identified upon the authenticated roll of 1880, all according to the page and number of the rolls as indicated in the testimony. She avers that the said Easter is her child. Consequently Josie Alberty and her child, Easter, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. They will be notified of the action of the Commission when the same is arrived at.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 12th day of July, 1901.



Commissioner.

12

32870

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 26 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date JUN 26, 1901Post Office Lenape St.District Gov

1. Name _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

1. Name of wife Jessie Alberty Age 43

Owner's name _____ Citizenship _____

Year Wallace Page 187 No. 3741 District _____

Parents:

Father Henry Rider - dead Citizenship _____Mother Betsy May - living Citizenship _____

Names of Children:

2. Easter Alberty Year 1896 Page 395-32 No. 32 Dist. Gov 16

4. Year _____ Page _____ No. _____ Dist. _____

5. Year _____ Page _____ No. _____ Dist. _____

6. Year _____ Page _____ No. _____ Dist. _____

7. Year _____ Page _____ No. _____ Dist. _____

8. Year _____ Page _____ No. _____ Dist. _____

9. Year _____ Page _____ No. _____ Dist. _____

10. Year _____ Page _____ No. _____ Dist. _____

11. Year _____ Page _____ No. _____ Dist. _____

12. Year _____ Page _____ No. _____ Dist. _____

Application made by No. 1Stenographer J. C. RossonRepresented by Mellette and Smith.

-R-

File with C.F.D-870, Josie Alberty, et al.

SUPPLEMENTAL: C.F. D- 918, Henry Rider.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., Sept.27,1901.

In the matter of the application of Henry Rider for enrollment as a Cherokee Freedman;

TESTIMONY ON THE PART OF THE CHEROKEE NATION:

Appearances:

Mr. Smith, of Mallette & Smith, Att'ys for applicant;
Mr. W.V.Hastings, attorney for Cherokee Nation.

BENJAMIN NAVE, being sworn, and examined testified as follows:
BY MR. HASTINGS:

- Q What is your name? A Benjamin Nave or Rollin.
Q What is your age? A 37.
Q What is your post-office? A Vinita.
Q Are you a recognized citizen of the Cherokee Nation? A I am.
Q Do you know an applicant for enrollment as a Cherokee Freedman name of Henry Rider, Jr., who lives at Lenapah? A Yes sir.
Q Mr. Nave, how long have you known him? A I have known him since 190, or 191.
Q Where did you first see him? A First saw him in Coffeyville, he was coming to Gooseneck Bend, hunting his people.
Q Did you have any conversation with him? A Yes sir.
Q What was the conversation about? that is, I mean, about his residence? A I met him in Coffeyville, and some one told him I lived down in the neighborhood where his folks lived, and he come to me and wanted to know if I knew his people; I told him I did; and he asked me how soon was I going down there that way; I told him I was going out pretty soon, and he rode out in the buggy with me down as far as Bill Vann's, that was in about a quarter of where he wanted to go.
Q And you directed him to his mother's? A Yes sir.
Q Did he know anything about the country at that time? A No sir, it was the first time he had been down there he said; he lived in Ottawa, Kansas; he left his family down there and had come to look out a location.
Q Was he married at that time? A Yes sir, said he was.
Q Where did he marry? A In Ottawa, I suppose, that's where he said he married.
Q Did you see him after that? A Yes sir.
Q About how long? A He stayed there probably a couple of months and went back and was gone about a year, and then he come back and brought his family; after he had been down there probably 6 or 8 months his wife taken sick and died; we set up with her the night she died.
Q Did he have some children? A Had 3.
Q You know whether they were born before or after he come down there? A He brought them with him.
Q What were the children's names? A I don't know their names.
Q Did you know his wife's name? A No sir.
Q What year was it you say he brought his wife down there? A Well the first time he come it was right after the Wallace payment, and he stayed down there a couple of months and went back, and he was gone about a year, and come back again with his family.
BY MR. SMITH:
Q Now what Rider was that you are talking about? A Henry Rider.
Q You know who his father was? A No sir.
Q You know who his father's mother was? A They called her Aunt Polly Rider.
Q Now that was just after the Wallace court? A Yes sir,

Henry Rider sup'l 3

after the Wallace payment.

Q Did you testify against this man before the Verna Clifton court?
A No sir, I didn't testify against any one.

Q Where do you live now? A I live in Vinita.

Q Well you know this then didn't you, when the Verna Clifton court was in session? A Yes sir, but I wasn't around with the Kern Clifton Court, I had other business.

Q Are you around with this court? A Not particular around with it, but I am here now, summonsed here.

Q What is your business now? A My business is common laborer.

Q Aren't you in the employ of the Cherokee Nation now? A I am a witness here, summonsed here.

Q How long have you been a witness? A Why I have been here probably about three weeks.

Q Were you a witness when the commission was taking testimony on the rounds when they were taking applications at Vinita and Chelsea and Nowata? A No sir, I wasn't no witness.

Q Where were you then? A I was employed by the Cherokee Nation then.

Q Well aint you employed still by the Cherokee Nation? A Yes sir.

Q In what capacity are you employed?

BY MR. HASTINGS: Now, Mr. Smith, I submit that that doesn't impeach this man; that's no way of impeaching him; he says he is subpoenaed here as a witness.

BY MR. SMITH: All of these questions go for what they are worth, I think, as affecting the credibility of the witness; I think it is competent, I wouldn't have offered it.

BY COMMISSION: Objection will be noted; answer the question.

Q Question was in what capacity are you employed? A Why to look after these people that haven't got no right on this roll.

Q That's your business? A Yes sir.

Q You are a Freedman are you? A Yes sir.

Q Have you ever been arrested for anything? A Yes sir.

Q What? A Assault and attempt to kill.

Q What else? A Nothing.

Q Were you tried? A Yes sir.

Q Where? A Fort Smith.

Q Is that the only thing you were ever arrested for? A Yes sir.

Q That's the only thing you were ever tried for? A Yes sir.

BY COMMISSION: this testimony will also be made a part of the record in Cherokee Freedmen cases number D-870, and D-215.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 8th, 1901.



Commissioner.

DEPARTMENT OF THE INTERIOR,
BUREAU OF INDIAN AFFAIRS,
WASHINGTON, D. C.

FILED
OCT 11 1901

ARTURO CHAVEZ

10.

272870

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
OCT 11 1901

ACTING CHAIRMAN

COMMISSIONERS

HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, AUG 23 1901, 190.

Received of the Commission to the Five Civilized
Tribes one copy of the testimony in the matter of the
application of Isid Alberty for en-
rollment as Cherokee Freedmen.

William C. Smith

Cherokee Freedmen # 1088

F. D. 1902

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190.....

Given under my hand this
day of A. D. 190.....

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

19 day of Apr 1902

Attorney for applicant

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT. }

I do solemnly swear that I delivered a
true copy of the within notice to

on the day of A. D. 190.....

Subscribed and sworn to before me
this

Notary Public.

COMMISSION TO REVEAL UNDEVELOPED LANDS

FILED

APR 19 1902

ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Josie Albert, et al
for enrollment as Cherokee Freedmen:

Case No. F. D. 870

To Josie Albert or Collette & Smith her attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on April 22nd, 1902, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this April 19, 1902.

L. B. Bell

W. W. Hastings
Jas. Davenport
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 22, 1902.

In the matter of the application of Josie Alberty et al for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-870.

Applicants represented by Mellette & Smith, Vinita, I. T.
Cherokee Nation represented by James S. Davenport.

WILLIAM M. MARTIN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A William M. Martin.
Q Where do you live, Mr. Martin? A I live at Ossawatimie, Miami County, Kansas.
Q How long have you lived at Ossawatimie in the state of Kansas? A Since December, '56.
Q Since you lived at Ossawatimie did you get acquainted with a colored family by the name of Rider? A Yes, sir, I knew some colored people there by the name of Rider.
Q Where were they living when you first got acquainted with them? A They were living about four miles south of Ossawatimie, on a farm called the Prescott farm.
Q Do you know what the old lady's name was? A I think her name was Betsy.
Q Were there any children in the family, any sons and daughters? A Yes, sir, there were some children.
Q Do you know what their names were? A I remember George Rider and Henry Rider, and I think there was a girl named Josephine.
Q How long did you know these people there, Mr. Martin, in that county, the neighborhood where you lived? A Well, I knew them around there in that neighborhood, it was in town or living in the immediate vicinity, up till along in '70s I reckon.
Q How late in the '70s do you have any definite recollection of their living there? A Well to the best of my recollection it was in '77, fall of '77, late in the fall.
Q What, if any, circumstance, happened that makes you remember that they were living there at that time? A These two young Riders were shot there by a white man.
Q Was the man any relation of yours by which you remember that? A Yes, sir, he was a brother-in-law of mine.
Q Who was it that shot the boys? A John Snider.
Q Do you remember anything about whether or not he was tried for it, and what year it was? A I think it was at the October term of '78.
Q Now after that did this family move away from Kansas, Mr. Martin? A Yes, sir, moved away sometime after that.
Q Have you any knowledge as to where they went? A No, sir, only I heard that there was some parties from the Territory was going to come up and did come up, and moved them down here.
Q You heard that; well now, was that after the boys were shot? A Yes, sir.
Q And they went away from the neighborhood then? A Yes, sir.
Q Now when was it you first got acquainted with Betsy Rider and these boys and girls? A '65; June, '65.
Q After you got acquainted with them how near did they live to you at any of the time or all of the time up to this shooting? A Well they lived right there in town where I lived sometime, and probably two or three miles out in the country part of the time.

Q Were they living in the country or town when this trouble came up between Snider and these boys? A Town, living across a block and a street from where I was living--no, I am mistaken about that, I was living in the country at that time on a farm. I had been living a block and a street from where they were living when they were shot.

MR. WELLETTE: Do you know the applicant here, Josie Alberty? A Well, I know a Josie there, I guess they are the same; I don't know her by that name though.

Q Well, do you know whether this Josie you are talking about is the applicant in this case? A No, sir, I haven't seen her since she came away from there; don't know whether she is the applicant or not.

Q Where was this Josie in '88? A Why she was living there.

Q Did you watch her all the time? A Oh, no, I didn't watch her all the time.

Q You don't know whether she left there for any time or not and returned, do you? A Well, I never knew of her being away.

Q Well, you didn't pay any particular attention to her, did you? A No, sir, I never did.

Q What county do you live in in Kansas? A I live in Miami County.

Q How far is that from the Kansas line? A From the east line?

Q From the Cherokee line? A Well, right due south of Ossawatimie is about 120 miles from the Cherokee line.

Q Well, you knew of these people living in that country now, and you didn't pay special attention to them, and yet at this date, thirty-five years ago, you could remember just whether they were absent for a month or two at a time or not, could you? A Well, I couldn't say as to that; but I never knew of their being absent.

Q Well, would you likely remember it at this time now? A If they were absent?

Q Would you remember? A I think I would.

Q You could remember now thirty-five years ago? A If I had known of their being absent.

Q Well, but what would have impressed it on your mind, the fact of them being away from there? A Why simply the fact of their going from the neighborhood.

Q But then they might have been absent without your knowing anything about it, couldn't they? A Possibly, yes, sir.

Q You don't know about that? A No.

Q Well, when were you first spoken to about the time and asked as to whether you remembered about these people or not? A In this case?

Q Yes, sir. A About three weeks ago.

Q You hadn't thought very much about these people up to that time?

A I hadn't paid any attention.

Q Hadn't paid any attention to them? A No, sir.

Q And then you remembered thirty-five years back and attempt to locate these people every month in the year? A No, sir.

Q Don't pretend to do that? A Don't pretend to locate them every month in the year, but I used to see them frequently all this time.

Q You can't remember now just how often you saw them? A No, sir, sometimes I used to see them every day, and then maybe I wouldn't see them for a week.

Q They weren't particular associates of yours? A No, sir.

R. W. DUNCAN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A R. W. Duncan.

Q Where do you live, Mr. Duncan? A I live on the Pottawatomie.

Q What is your postoffice? A Ossawatimie.

Q Kansas? A Yes, sir.

Q How long have you lived in and around the neighborhood of Ossawatimie, Kansas? A Well, about 35 or 6 years.

Q Where were you living at the close of the war? A At Ossawatimie; that is, on a farm in Ossawatimie Township, close to Ossawatimie.

Q While you was living there after the close of the war did you know a colored woman by the name of Rider, and family? A Yes, sir.

Q Do you know what her first name was? A Betsey Rider.

Q Do you know whether or not she had any children of her own that went by her name? A Yes, sir.

Q What were their names? A The oldest one's name is Julius or something like that; it's been a long time for a person to recollect anything they saw without a written memory without they were interested in it.

Q Well, give the names, if you remember them; if you don't why--

A And I think then there was one named Josephine if I ain't mistaken.

Q Well, were there any others? A Yes, sir, there was two boys, George and Henry.

Q How long did they live in your neighborhood or near you after you became acquainted with them, Mr. Duncan? A Well they lived there for I guess as much as six or seven years anyhow.

Q How far from you did they live? A Well, in the neighborhood of betwixt three and four miles.

Q Do you remember anything about the boys having any trouble at any time, or were you living there in that country at that time? A Yes, sir.

Q Do you know what the trouble was as to whether anybody was hurt or not? A Well, yes, sir, they were both hurt, but one was hurt worse than the other.

Q Well, now, who was it that was hurt? A The worst?

Q Who were the parties? A Why George and Henry.

Q Who? A Rider they called them.

Q Do you know by whom they were hurt? A Well, as I understood it a man by the name of John Snider.

Q Well now was their mother and them still living there in the neighborhood where you had known them at the time they were hurt? A I think they was.

Q Well do you know, Mr. Duncan, is what I want to get; do you know whether or not they were living there in the country at that time? A Yes, sir, I know that.

Q Well, now do you know what year that trouble occurred? A Well as near as my recollection, as near as I can recollect, I think it was somewhere along either about '69 or about '70.

Q You remember when that was; you know that they were living there in the country when the trouble occurred? That was what I have reference to.

MR. BELLETT: You think it was about '70? A Somewhere along there that that occurred.

Q Well, your recollection is not very good about these things that occurred thirty-five years ago? A No, sir, it's not.

Q A man can't do it? A No, sir, not good.

Q When did you first get acquainted with these people? A Why when I first got to Kansas.

Q When was that? A That was in '64, I think, or '5.

Q You don't remember just what date you went there? A No, sir, I don't.

Q Then you were acquainted with them some three or four years? A Yes, sir.

Q They left there soon after you say that they had some trouble there? A Well, yes, sir, I think they did.

Q Now you don't know whether they made trips down here to the Territory or not? A Well, no; I don't just know about that.

Q You can't tell whether they came down to this country and back or not? A I know there was some come away, and some couldn't get away.

and some of them that did come why they killed some of them on the road or shot them, some got back to home, and they was almost afraid to try to come, and there was some of them that they couldn't come.

Q But your recollection as to days and years is very ~~indefinite~~ indefinite at this time, isn't it? A Yes, sir, it is to tell the truth about it; I can't recollect very well; I have been shot in the head and I'm getting old.

Q How old are you? A Well, to tell the truth, I'm like lots of other people, I don't know my exact age to a day; I was sold the day before Buchanan three months election and as near as I can recollect I was 27 years old in June before that; the man that sold me and he did sell me, the man that fetched me to Southwest Missouri wanted a boy then, that was my young master, and the man that cried me said I was sixteen years old.

Q Slight difference then? A Yes, sir.

Q You're not very well posted on days or dates are you? A No, I ain't now.

COMMISSION: This testimony will be filed with and made a part of the record in the Following Cherokee Freedmen cases: No. D-215, D-218, and D-270, the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of April, 1902.

J. R. Renter
A.P.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of *Hoses Whitire, Trustee for the Freedmen, vs The Cherokee Nation*, No. 17209, filed in the *Mariah Hayden* case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said *Mariah Hayden*, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Jemie Alberty, D 870;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of *Mariah Hayden* will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the *Mariah Hayden* case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

*Reviewed and all
denied July 22, 1904
C.M.M.P.*

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

g p t

In the matter of the application for the enrollment of Josie Alberty, et al., as Cherokee Freedmen, consolidating the applications of

Josie Alberty, et al.,.....	Cherokee Freedmen	D 870
George Rider,.....	"	" D 915
Henry Rider, et al.,.....	"	" D 918

D E C I S I O N .

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Josie Alberty for herself and her minor child, Easter Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Carlos, Flora B. and Luellen Rider.

The evidence shows that the said Josie Alberty and George Rider, together with their father, Henry Rider (now deceased), were the slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion they were taken out of the Cherokee Nation and neither Josie Alberty nor George Rider returned to, or were residing in, said Nation within the time specified, in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. The Cherokee Nation for the return of Freedmen to said Nation.

The said Henry Rider, now deceased, is identified as a Cherokee Freedmen on the 1880 authenticated Cherokee roll; and it is presumed from this enrollment that he complied with all the provisions of the Cherokee treaty of 1866. It further appears that the applicant, Henry Rider, together with his minor children, above named, are the descendants of said Henry Rider, deceased; that they were born since the commencement of the rebellion and therefore take the status of their ancestor, Henry Rider, deceased; that Easter Alberty is the minor child of said Josie Alberty, born since 1866, and takes the same status as the latter.

The evidence further shows that about 1876 the applicant, Henry Rider, removed to the Cherokee Nation where he has since continuously resided. His minor children were born since that time and are considered to have resided in said Nation all their lives.

It is, therefore, the opinion of this Commission that the application for the enrollment of Josie Alberty, Easter Alberty and George Rider as Cherokee Freedmen should be denied, under the provisions of Section 21 of the Act of Congress, approved June 28, 1898 (30 Stats., 495); and that Henry Rider, Carlos Rider, Flora B. Rider and Luellen Rider should be enrolled as Cherokee Freedmen, in accordance with the provisions of Section 21 of said Act of Congress, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.



Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this _____

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee Land Office,
Tahlequah, I.T. July 19, 1904.

In the matter of the application of Josie Alberty for the enrollment of herself and Daughter, Easter Alberty, as Cherokee Freedmen.

SUPPLEMENTAL TESTIMONY.

PEARL H. BROWN, being duly sworn and examined by the Commission, testified as follows:

- Q What is your name? A Pearl H. Brown.
Q How old are you? A About 27 or 28.
Q What is your post office? A Lenapah.
Q You are a Cherokee Freedman are you? A Yes sir.
Q Are you married? A Yes sir.
Q Have you married since you were enrolled? A Yes sir.
Q What is your wife's name? A Easter Alberty.
Q Is she a daughter of Josie Alberty? A, Yes sir.
Q When were you and she married? A 1902.
Q What day? A I don't know what day.
Q Do you remember what month it was in? A December I think.
Q December 1902? A I think it was on Thanksgiving day.
Q It was in November then, 1902? A Yes sir.
Q Are you and she living together now? A Yes sir.
-

Mary B. Risser, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she correctly recorded the supplemental testimony in this case and that the foregoing is a true and complete transcript of her stenographic notes thereon.

Subscribed and sworn to before me
this 23rd day of July, 1904.

Mary B. Risser
[Signature]
Notary Public.

C. M. McR.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Josie Alberty et al., as Cherokee Freedmen, consolidating the
applications of:

Josie Alberty, et al.,
George Rider,
Henry Rider, et al.,

Cherokee Freedmen D-870,
Cherokee Freedmen D-915,
Cherokee Freedmen D-918.

-: D E C I S I O N :-

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Josie Alberty for herself and her minor child, Easter Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Carlos, Flora B. and Luellen Rider.

The evidence shows that the applicants, Josie Alberty, George Rider and Henry Rider, are the children of Henry and Elizabeth Rider, who were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion the applicants, Josie Alberty, George Rider and Henry Rider, were taken to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation. The applicant, Easter Alberty, is the minor daughter of Josie Alberty and possesses no rights to enrollment except through her said mother. The applicants, Carlos, Flora B. and Luellen Rider are the minor children of Henry Rider, and claim the right to enrollment through their said father, their mother, Martha Rider, possessing no rights as a Cherokee Freedman. Neither of the applicants herein is identified on the 1880 authenticated Cherokee Tribal roll.

It is, therefore, the opinion of this Commission that the application for the enrollment of Josie Alberty, Easter Alberty, George Rider, Henry Rider, Carlos Rider, Flora B. Rider and Luellen

Rider, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 498), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tam Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this Jan 10 1905

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Wm. J. J. Albany,

Memphis, T. T.

1902-1903.

Register.

TAMS BIXBY,

T. B. NEEDLES,

C. R. BRECKINRIDGE,

Commissioners.

15-0010

MAR 1961

15-0010

(C O P Y)

Cherokee Freedmen
D-870.

Muskogee, Indian Territory, January 10, 1905.

Jessie Alberty,

Lenapah, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting, among others, the application for the enrollment of yourself and your daughter, Easter Alberty, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(Signed) Tams Bixby.

Chairman.

Encl. L-81.

Register.

COPY.

Cherokee Freedmen
D-870 et al.

Muskogee, Indian Territory, January 10, 1908.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1908, rejecting the applications for the enrollment of Josie and Master Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. L-95.

(SIGNED). *Tame Bixby.*
Chairman.

COPY.

Cherokee Freedmen
D-870 et al.

Muskogee, Indian Territory, January 10, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Jonis Alberty et al., as Cherokee Freedmen, including the Commission's decision, dated January 10, 1906, rejecting said application.

Respectfully,

Encl. L-88.

SIGNED: *Tams Bixby.*
Chairman.

Through the
Commissioner of Indian Affairs.

(C O P Y)

Cherokee Freedman
D-870 et al.

Muskogee, Indian Territory, January 10, 1905.

Edgar Smith,

Attorney for Josie Alberty, et al.,

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting the applications for the enrollment of Josie and Easter Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(Signed) Tams Bixby

Encl. L-84.

Chairman.

Refer in reply
to the following:
Land
3408-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 15, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated January 10, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Josie Alberty for herself and her minor child, Master Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Carlos, Flora B., and Luella Rider.

January 10, 1905, the Commission decided adversely to all the applicants.

The record shows that the principal applicants, Josie Alberty, George Rider and Henry Rider are the children of Henry and Elizabeth Rider who were slaves of Cherokee citizens at the beginning of the war of the rebellion; that during said war the principal applicants were taken out of the Cherokee Nation and did not return thereto on or before February 11, 1867. The minor applicants possess no rights except through their respective parents, the principal applicants.

None of the applicants is identified on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

C. F. Larrabee
Acting Commissioner.

M.M.M.
W.

Y. P.
PHE.

D. C. 9040-1905. DEPARTMENT OF THE INTERIOR,

I. T. D. 1704-1905.

WASHINGTON. February 18, 1905.

L. R. S.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department does not find with the record in the Cherokee Freedman case of Jessie Alberty, et al., received with your letter of January 10, 1905, any evidence of service of notice of your decision upon the applicants.

It is requested that you inform the Department when and in what manner you gave notice of such decision.

Respectfully,

(Signed) Thos. Ryan

Acting Secretary.

COPY.

Cherokee Freedmen
D-870 et al.
915-918

Muskogee, Indian Territory, March 3, 1905.

The Honorable

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 18, 1905 (I.T.D. 1704-1905), there are herewith inclosed copies of the Commission's letters, dated January 10, 1905, to the applicants and their attorney, transmitting to them copies of the Commission's decision of that date in the matter of the application for the enrollment of Josie Alberty et al., as Cherokee freedmen.

Respectfully,

Encl. L-16.

C. R. Breckinridge.

Commissioner in Charge.

(copy)

J.R.W.
W.C.P.
S.V.P.

I.T.D.
1704-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
WASHINGTON.

October 5, 1905.

The Secretary of the Interior,

Sir:

I am in receipt by reference of August 3, 1905, with request for my opinion thereon, of the record in the case of application by Josie Alberty, George Rider, and Henry Rider, for their own enrollment and enrollment of Easter Alberty, daughter of Josie, Carlos, Flora B., and Luella Rider, children of Henry, minors, as Cherokee freedmen.

The three principal applicants are children of Henry Rider and his wife Betsy, or Elizabeth, May, who were both slaves of Cherokee citizens at the outbreak of the war of the rebellion. The principal applicants, according to the testimony, June 1901, were aged, respectively, forty-three, forty, and thirty-nine years, being born in the Cherokee Nation about 1858, 1861, and 1862. During the war they, being minors, were taken out of the Cherokee Nation to Kansas and lived there apparently with their mother until 1876, when their father came from the nation and took them with him into the nation, to which he had returned in the fall of 1865, after being taken

south by his master during the war. They ever since remained in the nation. The applicants' father, Henry Rider, is identified on the 1880 authenticated roll of Cherokee freedmen; none of the principal applicants is thereon identified, nor on the Kerns-Clifton roll; all the principal applicants are identified on the Wallace roll; Easter is identified upon the 1896 census roll.

The Commission to the Five Civilized Tribes, for failure of the principal applicants to effect a physical return to the nation until after February 11, 1867, denied enrollment of all the applicants. The Indian Office, February 15, 1905, recommended affirmance of that action.

In my opinion of March 22, 1904, (I. T. D. 641, 1904), construing this provision of the treaty, for reasons then given, I expressed the opinion that:

It is thus clear that resident was not intended to be used in the restricted sense of actual presence in the territory, but in the sense equivalent to legal residence or domicile, and the provision was intended to operate to the benefit of the persons, or classes, described whose legal domicile was in the Cherokee Nation.

This has been followed in the case of Charles Foreman (I.T.D. 6276-1903); Burrell Daniels (I.T.D. 1706-1905); opinions of April 16, 1904, and May 9, 1905, and other cases wherein this principle determined the question as presented to me.

In the present case the family was separated by the casualties of war, but the family relation was not dissolved, nor were the duties and rights arising as incident to it anywise changed. The head of the family when emancipation occurred was Henry Rider, the father. He had been carried south, while the remainder of the family drifted north to Kansas. Henry Rider, in due time under the treaty-- in fact, over a year prior to the date of the treaty -- returned to the nation, established himself there, and resided there until his death, April 19, 1881. He did not recover the actual custody and physical return of his children to the territory until 1876, but the fact that he then did recover them presumptively shows that he had not tried to cast off his legal obligation, if, indeed, he could have done so to prejudice of their rights. As he had neither emancipated his minor children nor abandoned his legal right, the result follows that his domicile was theirs, and that when he was domiciled in, and resident of, the territory, their legal domicile was there. Before their minority ceased, so that they could choose a domicile, their actual residence was established, and has ever since been maintained in the nation,. I am therefore of opinion that the Commission erred, and that the applicants are

entitled to be enrolled.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved:

October 5, 1905.

E. A. Hitchcock,

Secretary.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

Y.P.

LLB

I.T.D.1704-1905.

October 10, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is inclosed herewith a copy of an opinion of the Assistant Attorney-general of October 5, 1905, in the matter of the application of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider for their enrollment as Cherokee freedmen.

In accordance with said opinion, the decision of the Commission to the Five Civilized Tribes, adverse to the claimants, is hereby overruled, and you are authorized to enroll the applicants.

A copy of the Indian Office letter of February 15, 1905, (Land 3408), in which it is recommended that the Commission's decision be approved, is inclosed.

Respectfully,

(Signed) E. A. Hitchcock.

2 inclosures.

Secretary.

Muskogee, Ind. Ter., October 17, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith inclosed protest of the
Cherokee Nation against the motion to reopen the
Cherokee freedmen case of Henry Rider, et al., C. F. D. 918.

Yours very truly,

Bell, Hastings & Davenport

H.M.V.

Attorneys for the Cherokee Nation.

Through the
Commissioner of Indian Affairs.

G.A.W.:

Land:
84146-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 24, 1905.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to Department letter of October 10, 1905 (I.T.D. 1704-1905) there is enclosed a letter from the attorneys of the Cherokee Nation transmitting the protest of the Nation against the motion to reopen the Cherokee Freedmen case of Henry Rider et al.

The Department by letter referred to, in accordance with an opinion of the Assistant Attorney General of October 5, 1905, authorized you "to enroll the applicants."

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.M.M. (W)

Muskegee, Indian Territory, November 6, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

On October 10, 1905 (I. T. D. 1704-1905), the Department transmitted to this office an approved opinion of the Assistant Attorney General under date of October 5, 1905, in the matter of the application for enrollment as Cherokee freedmen of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider, and in accordance with said opinion over-ruled the decision of the Commission to the Five Civilized Tribes adverse to the claimants, and authorized this office to enroll the applicants.

The question involved in this case is the same as in the application of Burrell Daniels, et al., for enrollment as Cherokee freedmen (I. T. D. 1706-1905), and in which case this office takes issue with the views of the Assistant Attorney General as expressed in his opinion of May 9, 1905, and has addressed to the Department a letter under date of September 25, 1905, asking that the approval of the opinion of the Assistant Attorney General be reconsidered.

The action of the Department upon the letter of the Commissioner to the Five Civilized Tribes of September 25, 1905,

has not yet been made known to this office.

It is respectfully recommended that until Departmental action shall have been had upon this letter this office be authorized to withhold the names of Jemie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider from schedules to be transmitted for the approval of the Secretary of the Interior constituting a part of the final roll of Cherokee freedmen.

Respectfully,

Commissioner.

GHL

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

D-870, et al.

Muskogee, Indian Territory, December 21, 1905.

J. J. Bulger,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt, by reference of the Secretary of the Interior, of your letter of December 8, referring to the Cherokee Freedmen enrollment case of Josie Alberty, et al., and asking to be furnished a copy of an approved opinion of the Assistant Attorney General for the Interior Department in said case.

In reply you are advised that on October 10, 1905, the Department transmitted an approved opinion of the Assistant Attorney General, dated October 5, 1905, in the matter of the application for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion overruled the decision of the Commission to the Five Civilized Tribes adverse to the applicants and authorized this office to enroll them.

The question involved in the Alberty case is the same as in another freedmen application for enrollment, in which this office takes issue with the views expressed by the Assistant Attorney General, and under date of September 25, 1905, asked that the approval of the former opinion of the Assistant Attorney General be reconsidered.

Under date of November 6, 1905, this office recommended that until Departmental action upon this office letter with reference to the former opinion of the Assistant Attorney General shall have been had, this office be authorized to withhold the names of the applicants included in the Cherokee Freedmen enrollment case of Josie Alberty, et al., from a schedule to be transmitted for the approval of the Secretary of the Interior.

As the question involved in this case is the same as that which this office has recommended be reconsidered by the Department, it is not deemed advisable to give notice of the Department's decision until the Department shall have acted on this office request for authority to hold in abeyance said decision until the question involved shall have been considered in accordance with the views of this office expressed in its letter of September 25, referred to.

Respectfully,

LS

Commissioner.

D. C. 3554-1906.
I.T.D. 8805-1905.
13206- "
LRS

Y. P.
FHE.,

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

January 24, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

D. C. 5403-1906.
I.T.D.8563-1905.
13206- " .

LRS

Y. P.
JHE.

SECRETARY'S OFFICE
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

February 7, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohan, the latter of this city, September 7, 1905, in the cases of Henry Rider, et al., Josie Rider, et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Muskogee, Indian Territory, June 26, 1906

The Commissioner
of Indian Affairs.

Sir:

On October 10, 1905 (I.T.D. 1704-1905), the Department transmitted to this office an approved opinion of the Assistant Attorney General for the Interior Department, dated October 5, 1905, in the matter of the applications for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion reversed the decision of the Commission adverse to the applicants and authorized this office to enroll them.

On November 6, 1905, this office requested authority of the Department to withhold the names of the applicants in said case from schedules to be transmitted for the approval of the Department, until the questions involved in the Cherokee Freedman enrollment case of Burrell Daniels et al. (I.T.D. 1706-05), shall have been passed upon. As yet no action has been taken by the Department in the Daniels case, and no further action has been taken in the Alberty case.

Commissioner--2

The Indian Office in letter to this office of October 24, 1906 (Land 84146-1905), referring to the Department's letter of October 10, 1906 (I.T.D. 1704-1905), enclosed a letter from the attorneys for the Cherokee Nation transmitting a protest against a motion to reopen the case of Henry Rider, et al. The Nation's reply is enclosed herewith for consideration in connection with the case.

Attention is also called to the Department's letter of February 7, 1906 (I.T.D. 8563, 13206-1905), referring to said cases, stating that "a motion filed by Blue & Bulger and McGowan, Serven & Mahun, the latter of this city (Washington, D.C), September 7, 1905, in the cases of Henry Rider, et al., Josie Rider et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration, and has been sent to the Indian Office to be filed with the papers in the case."

Respectfully,

L M B.

Encl. B-73

Commissioner

Muskogee, Indian Territory, August 20, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

On August 10, 1906, the Department referred to this office, by stamp, for report and recommendation thereupon, a letter from Henry Rider, Lenapah, Indian Territory, dated July 28, 1906, with which is enclosed his letter of July 25, in reference to his Cherokee freedman case and his right to crops growing on land claimed as the allotments in the Cherokee Nation of himself and family. He states that the Department notified him in its letter of July 12, that his case was pending before the Department, a reconsideration thereof having been requested by the Commissioner on November 6, 1905; that as he was ordered enrolled by the Department prior to April 26, 1906, the provisions of the Act of Congress approved on that date prevents a reconsideration of his case; and that a receiver has been appointed to control the crops grown on the land he is holding as the allotments in the Cherokee Nation of himself and family.

Secretary--2.

The records of this office show that on January 10, 1905, the Commission to the Five Civilized Tribes rendered its decision in the Cherokee freedman consolidated case of Jessie Alberty, et al, D 870, et al, rejecting, among others, the application of Henry Rider for the enrollment of himself and minor children, Carlos, Flora B. and Luellen Rider, as Cherokee freedmen; that on October 10, 1905, (I.T.D. 1704-1905), the Department, in accordance with an approved opinion of the Assistant Attorney General of October 5, 1905, overruled the decision of the Commission rejecting said applicants and authorized the Commission to enroll them as Cherokee freedmen; and that on November 6, 1905, this office requested authority to withhold the names of these applicants from schedules to be transmitted for Departmental approval awaiting a final decision by the Department in the Cherokee freedmen case of Burrell Daniels, et al, the subject of an approved opinion of the Assistant Attorney General, dated May 9, 1905 (I.T.D. 1706-1905), the reconsideration of which opinion this office requested in its letter of September 25, 1905. This office has not been advised of any action taken by the Department in the Daniels case, and awaiting action on this office's request for a reconsideration thereof, no further action has been taken in the matter of the application of

Secretary--3.

Henry Rider.

The provision of the Act of Congress approved April 26, 1906 (Public No. 129), to which Henry Rider refers, is as follows:

"The roll of Cherokee freedmen shall include only such persons of African descent, either free colored or the slaves of Cherokee citizens and their descendants, who were actual personal bona fide residents of the Cherokee Nation August eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee Nation on or before February eleventh, eighteen hundred and sixty-seven; but this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior."

As the application of Henry Rider for the enrollment of himself and children was pending on April 26, 1906, the clause in the above act to the effect that "this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior," does not apply to his case.

The land in the Cherokee Nation which Henry Rider claims as the allotments for himself and children is not described and this office is therefore unable to advise the status of the same. The records of this office show, however, that on November 9, 1904, Henry Rider appeared before the Commission to the Five Civilized Tribes and

Secretary--4.

claimed as an allotment in the Cherokee Nation for himself, the N2 of NE4 of SW4; the SE4 of NE4 of SW4; the NE4 of SE4 of SW4; and the S2 of SE4 of SW4 of Section 8, Township 28 N., Range 16 E. of the Indian Meridian, which land had theretofore been selected as a partial allotment in the Cherokee Nation for Eric Scott;

For his son, Carlos Rider, the NE4 of SE4 less .92 acres K.&A.V. R.R. right-of-way, and the SE4 of SE4 of Section 7, Township 28 N., Range 16 E., which land had theretofore been selected as a partial allotment in the Cherokee Nation for Buster Scott;

And for his child, Flora B. Rider, the N2 of NW4 of SW4; the SW4 of NW4 of SW4; the NW4 of SW4 of SW4; and the S2 of SW4 of SW4 of Section 8, Township 28., Range 16 E., which land had theretofore been selected as a partial allotment in the Cherokee Nation for Edna Scott.

No action has been taken looking to a determination by contest proceedings of the right of these parties to said land, pending the citizenship in the Cherokee Nation of the Riders.

This office has no knowledge of a receiver having been appointed to control the crops grown on the land claimed

Secretary--S.

by Henry Rider as the allotments for himself and children. His letter is returned herewith.

Respectfully,

Encl. M.A.20-S.

Commissioner.

Through the Commissioner
of Indian Affairs.

6
Muskogee, Indian Territory, August 22, 1906.

The Commissioner
of Indian Affairs,
Washington, D.C.

Sir:

June 26, 1906, this office, referring to Indian Office letter of October 24, 1905 (Land 84146-1905), and to Departmental letter of October 10, 1905 (I.T.D. 1704-1905), returned a letter from the Attorneys for the Cherokee Nation, transmitting a protest against a motion to reopen the Cherokee Freedmen case of Henry Rider et al., which letter and protest was transmitted to this office with Indian Office letter of October 24. Attention was invited to the Department's letter of February 7, 1906 (I.T.D. 8563, 13206-1905) addressed to this office, referring to the Cherokee freedman case of Josie Alberty, et al., with which was consolidated the case of Henry Rider et al., and stating that there had been filed on September 7, 1905, by Blue and Bulger and McGowan, Serven and Mohun, a motion for review of said case, and that as the decision of the Commission to the Five Civilized Tribes rejecting the applicants

Commissioner--2

in said case was overruled by the Department on October 10, 1905, the motion "does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

The motion referred to by the Department seems to have been inadvertently transmitted to this office with the Department's letter of January 24, 1906 (I.T.D. 8805, 13206-1905), which letter is as follows:

"The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty et al., a motion filed by Blue & Bulger, and McGowan; Serven & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

Said motion is returned herewith for proper consideration.

Respectfully,

Commissioner.

Incl.B-1
L M B

Copy.

Muskogee, Indian Territory, February 28, 1907

Direct
Special

The Honorable,

The Secretary of the Interior.

Dear Sir:

October 10, 1905 (ITD 1704-1905), the Department transmitted to this office a copy of an approved opinion of the Assistant Attorney General of October 5, 1905, in the matter of the application for the enrollment of Josie Alberty, et al., as Cherokee freedmen, and in accordance therewith overruled the decision of the Commission to the Five Civilized Tribes adverse to Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider.

On November 6, 1905, the Commissioner reported that the question involved in the case of Josie Alberty, et al., is the same as in the Cherokee freedman case of Burrell Daniels, et al., which case was the subject of an opinion of the Assistant Attorney General approved by the Department (ITD 1706-1905), and as the Commissioner on September 25, 1905, requested that said Daniels case be reconsidered, it was recommended that until the Department had acted upon this request for a reconsideration of the Daniels case, he be authorized to withhold the names of the applicants in the case of Josie Alberty, et al., from schedules to be transmitted for the ap-

preval of the Department, until his said request had been acted on. This office has not been advised of any further action taken by the Department in the case of Burrell Daniels, et al.

In view of the record in the case and of Section three of the Act of Congress approved April 26, 1906, (34 Stat. 132), it is respectfully recommended that the Department rescind its decision of October 10, 1905, and that the applications for the enrollment of the applicants embraced in the case of Josie Alberty and others, be denied.

There is inclosed, for Departmental approval in the event it adheres to its said decision of October 10, 1905, a schedule containing the names of these applicants.

Respectfully,

Commissioner.

INDEXED.

COMMISSIONER TO THE AGENT	
No.	Received
13353	MAR 8 1907

Department,
Wilson,
Washington, D. C.,
March 4, 1907.

Directs that George Rider,
Josie and Easter Alberty
be enrolled as Cherokee
freedmen.

WMC

W.H.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D.16216-1905.

March 4, 1907.

has
DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Following the instructions to you of even date relative to Henry Rider, et al., applicants for enrollment as Cherokee freedmen, you are directed to also enroll George Rider, Josie Alberty and Easter Alberty.

The matter of the enrollment of these parties was the subject of your letter of November 6, 1905. Your letter of that date has been sent to the Indian Office, with a copy hereof.

Respectfully,

James E. Wilson
Assistant Secretary.

1 enclosure, and
copy hereof, to Ind. Of.

(COPY)

I. P.
FHB

D. C. 15489-1907
I.T.D. 7966-1907

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 4, 1907

DIRECT
L R S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the opinion of the Assistant Attorney General in the matter of the application of Josie Alberty et al., for enrollment as Cherokee freedmen, the schedule containing the names of the parties, received with your letter of February 28, 1907, is approved, notwithstanding your suggestion that the parties should not be enrolled.

The Department has communicated with you in regard to this matter. The schedule will be disposed of in the usual manner.

Respectfully,

(Signed) E. A. HITCHCOCK
Secretary

2 inc. and
1 for Ind. Of. with
copy hereof.

A. F. Mc.
3-5-07.

(COPY)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Washington, D. C., March 14, 1907.

Commissioner to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed Departmental letter of March 4, 1907 (I T D 7966-1907), relative to the schedule prepared by your office, containing the names of Josie Alberty, et al., for enrollment as Cherokee freedmen, and which was the subject of your letter of February 28, 1907.

When the parties included in said schedule were ordered enrolled they were placed on a schedule prepared by your representatives at Washington, opposite numbers 4235 to 4241 inclusive, the schedule being approved March 4, 1907.

When this duplicate enrollment was discovered the copies prepared by you were returned to the Department unnumbered for such action as the Department may consider necessary.

Respectfully,

(Signed) A. E. McGarr.

Enclosure.

D.C. 17134-1907

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I.T.D. 7966-1907
8590-

March 19, 1907.

LLB

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In communication of March 13, 1907, your representative here, Mr. McGarr, called attention to the fact that the Department on March 4, 1907, approved a schedule of Cherokee freedmen, without numbers, containing the names of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider, which schedule was prepared by you and submitted with your letter of February 28, 1907.

Previous to the receipt of this schedule the Department had approved a schedule prepared by Mr. McGarr in accordance with departmental letter to you of March 4, 1907, bearing the names of such persons, opposite Nos. 4235 to 4241, inclusive.

The schedule prepared by you being superfluous, its approval has been cancelled.

A copy of the letter of your representative of March 13, 1907, has been sent to the Indian Office; also copy of departmental letter of March 4, 1907, first written, under which the roll was prepared.

Respectfully,
(Signed)

Jesse E. Wilson,
Assistant Secretary.

Through COM. of Ind. Aff.
2 inc. to Ind. Off.

Cherokee D870

COPY

Muskogee, India Territory, March 21, 1907.

Josie Alberty,

Lenapah, Indian Territory.

Dear Madam:

You are hereby advised that the application for the enrollment of yourself and others, as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

Respectfully,

Commissioner.

RPI

Cherokee D870

COPY

Muskogee, Indian Territory, March 21, 1907.

Starr & Patton,

Attorneys for George Rider, et al.,
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the application for the enrollment of George Rider, et al., as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *James P. Smith*

Enc I-613.

Commissioner.

RPI

Cherokee D870

COPY

Muskogee, Indian Territory, March 21, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of George Rider, et al, as Cherokee freedmen, was granted by the Secretary of the Interior, March 4, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Enc I-613 | ✓

RPI

SIGNED *Tams Kirby*
Commissioner.

Cherokee Freedmen
1864

Muskogee, Indian Territory, March 28, 1907

Josie Alberty,

Chelsea, Indian Territory.

Dear Madam:

In reply to your letter of March 21, 1907, you are advised that the application for the enrollment of yourself and your daughter, Easter Alberty, as Cherokee freedmen, was granted by the Secretary of the Interior March 4, 1907.

You will be duly advised of the final enrollment numbers of yourself and your child as soon as the schedule containing your names is returned to this office approved by the Secretary of the Interior.

Respectfully,

L M B

Acting Commissioner

Cher Fr 1565

Trans. from Cher Fr D918

Cher Fr 1565

13

319918

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 28 1901


ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN.

Date *June 28, 1911*

Post Office *Lenahat, Ga.*

District *1st*

1. Name *Henry Rider* Age *38*

Owner's name _____ Citizenship _____

Year *Wallace* Page *185* No. *3795* District _____

Parents:

Father *Henry Rider* Citizenship _____

Mother _____ Citizenship _____

2. Name of wife _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

Names of Children:

2.	<i>Carlos</i>	<i>Rider</i>	Year _____	Page _____	No. _____	Dist. _____	<i>12</i>
3.	<i>Glenn B.</i>	"	Year _____	Page _____	No. _____	Dist. _____	<i>11</i>
4.	<i>William</i>	"	Year _____	Page _____	No. _____	Dist. _____	<i>10</i>
5.			Year _____	Page _____	No. _____	Dist. _____	
6.			Year _____	Page _____	No. _____	Dist. _____	
7.			Year _____	Page _____	No. _____	Dist. _____	
8.			Year _____	Page _____	No. _____	Dist. _____	
9.			Year _____	Page _____	No. _____	Dist. _____	
10.			Year _____	Page _____	No. _____	Dist. _____	
11.			Year _____	Page _____	No. _____	Dist. _____	
12.			Year _____	Page _____	No. _____	Dist. _____	

Application made by *Me.* Stenographer *E. C. Jones*

2, 3 and 4 Birth affidavits to be supplied

X Ref 19 & 70 & 915

Represented by Mellette and Smith

19

55918

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
JUN 28 1901
F I T E D

CERTIFIES THAT

Henry Rider Jr of
the Cherokee Nation
and Mesatha Duncan
of Kansas
do hereby unite

MARRIAGE

According to the laws of the State of

on the sixth day of Jan.
in the year of our Lord one thousand
Eight hundred Eighty eight
at Grenola Kas

Witnesses

Nancy Duncan J. L. Dade
M. H. H. H. officiating

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 28th, 1901.

In the matter of the application of Josie Alberty for the enrollment of herself and child as Cherokee Freedmen; said Alberty being ~~sworn~~ sworn and examined by Commissioner T. B. Needles, testified as follows:

Appearances:

Messrs. Mettitt & Smith, for Applicants.

Mr. W. W. Hastings, for Cherokee Nation.

Q. What is your name? A Josie Alberty.

Q How old are you? A I guess I am about 43.

Q What is your postoffice? A Lenapah.

Q What district do you live in? A Cooweescoowee.

Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.

Q Have you ever applied to be enrolled by any other Nation or tribe?

A No, sir.

Q Who do you want to enroll besides yourself? A My daughter, Easter Alberty.

Q How old is she? A 16.

Q Anyone else? A No, sir.

Q Are you married? A I have been, my husband is dead.

Q Was your husband named Alberty? A Josh Alberty.

By Mr. Smith:

Q Where do you live? A Up in Gooseneck bend.

Q Is that in the Cherokee Nation? A Yes, sir.

Q How long have you lived there? A All my life.

Q How old are you, you say? A My parents tell me I was three years old before the war; I was born two weeks before Christmas they said and that is all I can go by; but the way I can guess it I think I am about 43 years old.

Q Do you have any recollection of yourself as to when you came back to the Cherokee Nation after the war or who took you out?

A I don't remember anything much about it.

Q You don't remember? A No, sir.

Q You say you have been living there ever since you can remember where you are living now? A Not altogether, I have been to different places after the war.

Q Have you any farm in the Cherokee Nation? A Yes, sir.

Q Where? A Right on the Bend of Gooseneck.

Q How long have you had it? A Ever since I have been married.

Q How long is that? A I was married in '85, Josh Alberty.

By Mr. Hastings:

Q What was your father's name? A Henry Rider.

Q And what was your mother's name? A Betsey May.

Q You don't remember before the war? A No, sir.

Q You don't remember coming back here? A No, sir.

Q Now, with whom did you live when you can first remember?

A I can't remember half of the people.

Q Who were you living with, where was you home? A On Brushy.

Q How far was that from Chouteau? A I don't know.

Q How long did you stay there? A Good while.

Q Well, ~~that is all~~ how old were you when you left there?

A I was single woman.

Q Well, did you stay there until you were married? A No, I married up here, my father moved here, he moved up here on the river.

Q Well, did you stay there with your father on Brushy?

A Yes, sir, he went and got us after the war.

Q Before he moved? A Yes, sir.

Q Just before he moved from Brushy? A Yes, sir.

Q How long did you stay down there at Brushy before you moved?

A I can't tell you.

Q You will have to tell me something; about how long now, did you stay there the year before your father moved up to Brushy?

A It might have been two or three years.
Q Might it have been less? A No, sir, it may have been more.
Q You were about grown when you left there? A Yes, sir, I was about 14 or 15.
Q What kind of a house did you live in? A Little old log house.
Q Who were your neighbors down there? A I can't remember any of the names.
Q Well, any of them? A There is uncle Jim Rider, uncle Lige.
Q Jerry Alberty living down there? A Away below there.
Q Was any Cherokees living around in that country? A Yes sir.
Q What were their names? A I don't know any one but Bill Sunday and Jim Sunday.
Q About what year did your father move away from down there?
A I could not tell that.
Q But you were about 14 or 15 years old? A Yes, sir.
Q I am trying to get your best judgment about how long you remained down there before you moved away? A I could not guess at it.
Q You have got no judgment at all as to that? A I wasn't grown when my father come up from the south and got us.
Q Your father come up here and got you? A Yes, sir, got mother one Sunday and my father went south and got three of us children.
Q Was old man Joel Bryant living down there when you come there?
A I don't remember.
Q Do you remember R. W. Lindsey? A I think, I think my owners did I aint certain.
Q What town were you living in in Kansas when your father come up after you? A Little town we used to call Indianapolis.
Q Do you know what other towns were anywheres near it?
A They say there aint none now in Osawatome now.
Q Who did you live with up there? A Stayed with my mother.
Q And your husband is named Josh Alberty? A Yes, sir, I am his second wife: I married him in '83.
Q You went back to Kansas after you came down here with your father? A No.
Q Never been back up there? A Oh, I have been back lots of times but not to stay.
Q How long did you ever stay up there? A I never stayed there but just a little while at the time.
Q Did you apply to the Kern-Clifton commission for enrollment?
A Yes, sir.
Q Under what name? A Josie Alberty, or Josie Wright, but I didn't get any money, but the Wallace roll I got.

The 1880 Authenticated Roll, the 1896 ~~Census~~ Census Roll and the Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicants not found thereon.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant identified thereon, page 183, #3441, Josie Alberty, no district given.

By Com'r Needles:

Q How did you say you drew money on the Kern-Clifton roll for Easter? A Yes, sir.

Q What was your mother's name? A Betsy May.

Q Betsy May living? A Yes, sir.

Q Your father living? A No, sir, he is dead; Henry Rider, is dead.

The 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant's child found thereon, page 395, #32, Easter Alberty, Cooweescoowee District.

By Mr. Hastings:

Q How many sisters come back with you? A My father, there

was just three of us he went after, two boys and one girl.

Q When did you first see Lewis Daniels? A First saw Lewis ever since I got back here.

Q Where did you first see Lewis? A In the Nation.

Q On Big Creek? A No, sir.

Q Where? A I don't know.

Q Just met him in the road? A No, sir, some big place.

Q You don't remember? A No, sir, my father had him with him.

Q Your three sisters with you? A No, sir.

Q Your mother? A There wasn't none of them.

Q Just you and your father along? A Yes, sir.

Q You remember seeing him there? A Yes, sir.

Q Where did you first see Katie Vann? A I used to stay with Katie.

Q Before the war? A Before the war.

Q When did you see her after the war? A Shortly after I come here.

Q Where? A She was living in below here.

Q Where? A I could not name the place.

Q What district was it in? A Cooweescoowee I suppose.

Q Was it in Cooseneck? A No, sir, below.

Q Down here on Grand river? A Yes, sir.

Q On what side of Grand River? A I could not tell the sides of the river now if I would go there.

Q How long was it after you came back until you saw her? A Ever since I remember myself I saw her.

Q How long is that after you got back? A I could not tell you that.

Q As much as seven years? A I could not tell.

Q Twenty?

Objected to by Attorney for Applicant for the reason that applicant does not know.

Com'r Needles: She says she does not know.

L. D. DANIELS, being duly sworn by Commissioner T. B. Needles, testified as follows:

By Mr. Smith:

Q State your name? A L. D. Daniels.

Q How old are you? A 56; postoffice Claremore.

Q Do you know this applicant, Josie Alberty? A Yes, sir.

Q Do you know her mother? A Yes, sir.

Q What was her mother's name? A Oh, I know her good but I can't call her name right now; she lives right by me there, I can't think of her name now.

Q Did you know her father? A Yes, sir, he was my uncle, Henry Rider.

Q How long have you known this girl? A I have known her ever since '76.

Q Where was she when you first knew her? A On the Verdigris river, Cherokee Nation; up there where she is living now.

Q Who was she with? A Henry Rider, her father.

Q Were you or were you not acquainted with Henry Rider before the war? A Yes, sir.

Q Were you acquainted with this girl's mother? A No, sir, I wasn't acquainted with her mother.

Q Was Henry Rider a slave? A Yes, sir.

Q To whom did he belong? A Tom Rider.

Q Was Tom Rider a Cherokee Indian? A Yes, sir, he was.

Q Was he a citizen of the Cherokee Nation? A Yes, sir.

Q Where was Tom Rider living at the time the war commenced?

A On Grand River.

Q In the Cherokee Nation? A Yes, sir.

Q Where was Henry Rider? A Henry was there, same place.

Q Do you know whether Henry was taken out of the Nation or whether

He went out during the war? A Yes, sir.

Q Well, did he go out? A Yes, sir.

Q Do you know when he returned to the Cherokee Nation? A Yes sir.

Q When? A He returned the fall of '68.

Q Where did he come to? A Right there at Fort Gibson, sir.

Q Is he living or dead? A He is dead.

Q How long has he been dead? A He has been dead near about 18 or 19 years, about 18 I think, somewhere along there. I believe he died in '89 if I mistake now, I think he did.

Q Well, where did this man Henry Rider locate after coming, what became of him after you knew him in 1865? A He moved up here on Brushy, sir, about 25 miles from Fort Gibson.

Q In the Cherokee Nation? A Cherokee Nation, three miles from Chouteau Station, east of the station.

Q Well, at the time you knew him in '65 did he have any children with him? A No, sir, he didn't, he was there with Mr. Hicks, Dan Hicks there at Fort Gibson.

Q Well, now, did you know when Josie came back to the Cherokee Nation? A The first time I seen them I seen them in '76, Spring of '76.

Q Where were they when you saw them? A Right up here on the river known as Gooseneck, Cherokee Nation.

Q Well, who did you see anybody besides Josie? A Henry and George of the same father and mother, so said to be.

Q Which was the older, this girl or the boys? A Josie.

Q How old did she appear to be at that time, about how large?

A She looked to be about 14 or 15 years old.

Q Do you know how long they had been in the Cherokee Nation when you first saw them? A No, sir.

Q You don't know that? A No, sir.

Q Do you know of your own knowledge when these children were born?

A No, sir.

Q Well, about how old did Henry, the boy, appear to be at that time? A He appeared to be.

Q You said this girl had two brothers? A Yes, sir.

Q What were their names? A Josie, George and Henry Alberty; Henry I supposed seemed to be the youngest one.

Q How old did he seem to be? A He appeared to be about nine or ten.

Q And George was between the two, between Josie and Henry?

A No, George was older than Henry, he is next to Josie.

Q Is he younger or older than Josie? A He is younger than this girl.

Q Did she have any sisters? A Yes, sir, she has got sisters up there now that are living.

Q When did you first know her sisters? A I got acquainted with one of her sisters at Fort Gibson, the baby that is Charley Key's wife now, they called Hannah.

Q Is Hannah older or younger than Josie?

A She is younger I guess she is on the authenticated roll.

Q Younger you say? A Yes, sir, I guess she is younger, I don't know.

Q Well, any other sisters now besides Hannah? A Net Rider, she goes by the name of Net Scott now, on the roll it is Net Rider, and then she has got another sister by the name of Lena.

Q Are these last children you mention of different mothers?

A Yes, sir, one father.

Q Well, now, do you know how many children Henry Rider had by this woman, Josie's mother? A Only three that I know of.

By Com'r Needles:

Q Did you know this girl's mother, Betsy? A Yes, sir.

Q Was she a slave? A I guess so, I didn't know of her being a slave, I just got acquainted with her since the surrender.

Q When was the first time you ever saw Betsy? A I saw Betsy near about the same time, it may have been a year after that.

After what? A After '76.

Q You didn't see her at the time you saw Henry the first time?

A No, sir.

Q Betsy was his first wife? A Yes, sir.

Q And Betsy is the mother of Josie? A Yes, sir, Henry went south and Betsy went north.

Q You don't know whether Henry and Betsy were ever married or not?

A No, sir.

Q You don't know where Betsy was a slave or not? A No, sir.

By Mr. Hastings:

Q Now, E. D., when you knew Henry after the war he had another wife didn't he? A Mariah, yes sir.

Q And he always lived with her as his wife, that is, after the war?

A Yes, sir.

Q And Mariah is the mother of these children you have mentioned here a while ago? A Mother of one.

Q Mother of Jennette? A Hannah.

Q Aint Mariah the mother of Jennette or Jennie? A No, sir.

Q Who is the mother of Jennie? A Polly Rider.

Q What I mean this girl's mother is not the mother of any of these children you have mentioned a while ago? A No, sir.

Q And you never saw this girl and her mother since the war until '76? A No, sir.

Q That is the first time you saw her? A Yes, sir.

Q Now, where has this girl been living since '76?

A Right over in the Cherokee Nation on Verdigris river in half a mile of my farm.

Q You never knew her mother before the war? A No, sir, I wasn't acquainted with her before the war.

JOSIE ALBERTY, the Applicant, recalled: By Mr. Hastings:

Q Didn't you used to live at Iola, Kansas? A No, sir.

Q You come to Gooseneck Bend in 1874 from Iola, Kansas?

A No, sir.

Q Didn't you have a witness here named John Baldrige before?

A No, sir.

Q Is your mother named Betsy? A Yes, sir, I can tell you who my witness was, Eli Keys and Katie Vann and Hammer Brown.

Q Did you know a woman by the name of Louisa, have you got a sister by that name? A No, sir, I aint got no other sisters.

Q Well, half sisters? A No, sir.

Q Do you know Louisa, Walter Mar and Pigeon? A That's my half sister's children.

Q Then they are nephews of yourself? A Yes, sir, that is here now.

Q Where did your mother die? A My mother aint dead she is living, she is not dead, she is living.

KATIE VANN, being first duly sworn, by Commissioner T. B. Needles, testified as follows: By Mr. Smith:

Q State your name? A Katie Vann.

Q How old are you? A 56 years old.

Q Where do you live? A Lenapah.

Q How long have you lived in the Cherokee Nation?

A Well, I was born and raised here and went out to Kansas during the war and come back here in '66.

Q Do you know this applicant, Josie Alberty? A Yes, sir.

Q Who was her father? A Henry Rider.

Q Who was her mother? A Betsy May.

Q Did you know her father and mother before the war?

A Yes, sir.

- Q Was Betsy May a slave? A Yes sir.
- Q Who did she belong to? A Mrs. May, she was a widow May.
- Q Was Mrs. May a Cherokee Indian? A Yes, sir.
- Q Citizen of the Cherokee Nation? A Yes, sir.
- Q Was Henry Rider a slave? A Yes, sir.
- Q Whom did he belong to? A Tom Rider.
- Q Was Tom Rider a Cherokee Indian? A Yes, sir.
- Q Was he living at the time the war commenced? A On Grand River.
- Q Where did this girl's father and mother live at the time the war commenced? A He was living on Grand River.
- Q Were they married in slavery times? A Yes, sir, I wasn't at the wedding, but I heard about it, I could have been there they were married.
- Q Do you know when Josie was born? A No, sir, I don't recollect when she was born.
- Q Was she born before the war? A Yes, sir.
- Q Has Josie any sisters or brothers? A Yes, sir.
- Q What are their names? A George and Henry.
- Q Are they older or younger? A They are younger, she is the oldest.
- Q Do you know whether George was born before the war or after? A He was born before the war.
- Q Do you know whether Henry was born before the war or after the war or during the war? A He was born during the war, I guess, was a little baby when they went to Kansas.
- Q Now, what became of the mother of Josie there? A She lives out on Verdigris.
- Q What became of her during the war? A She went to Kansas.
- Q What became of these children? A She had them with her.
- Q What became of their father? A He went south.
- Q Who did he go with? A Went with his owners I guess, Rider.
- Q Do you know when the father, Henry Rider, first returned to the Cherokee Nation after the war? A Yes, sir.
- Q When? A In '68.
- Q Do you know when these children, this applicant and her two brothers, George and Henry, returned? A It must have been in '75 or '76 somewhere along there.
- Q With whom did they return? A I think he went after them if I aint mistaken.
- Q Why, Henry? A Yes, sir, their mother sent word by me when I started from Kansas for him to come after them.
- Q Did you see them here in the Cherokee Nation at any time about the time you have mentioned did you say it was '75 or '76?
- A Yes, sir.
- Q Where did you see them? A Up on Verdigris, Gooseneck bend.
- Q Who were they with? A I saw them here at their father's.
- Q Do you know where Josie this applicant has been living since that time? A She lived around there with her father and with Jess Vann's folks some time until she married and she married Josh Alberty and lived out around places.
- Q When did she marry Josh? A I guess about 15 or 16 years ago, I forget what year.
- By Com'r Needles:
- Q How old was Josie when she returned in '76? A I don't know.
- Q Was she grown? A No, sir, she wasn't grown.
- Q Well, when did her mother return, Betsy? A She come along about the same time.
- Q She stayed there until that time? A Yes, sir.
- Q Was Josie born before the war? A Yes, sir.
- Q And was taken to Kansas and stayed there until '76? A Yes sir.
- By Mr. Hastings:
- Q Where did you live before the war? A I lived down on Grand river.
- Q On which side? A On the east side.
- Q How far from where Locust Grove is now.

- Q About four or five miles.
Q How far from you did this woman's mother live.
Q She lived about 12 miles above us up on Grand River.
Q How old were you when the war came up? A I guess I was about 18 or 19.
Q ~~XXXXXXXXXXXXXXXXXXXX~~ Do you ever remember especially of seeing this girl before the war? A Yes sir.
Q How old did you take her to be then? A She was very small, I could not tell; she must have been four or five years old.
Q Where did Rider live before the war? A He lived at Rider's his master.
Q On which side of the river did they live? A On the west side.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of applicant's father found thereon, Page 161, #2315, Henry Rider, Cooweescoowee District.

Com'r Needles: Josie Alberty, applies for the enrollment of herself and her child, Easter. She avers that she is the child of Henry Rider by his wife, Betsy May, that Henry Rider was a slave as well as herself and taken out of the Cherokee Nation during the war. The evidence shows that Henry Rider returned to the Cherokee Nation in '65; further shows that the applicant did not return to the Cherokee Nation until the year 1876, that she has lived in the Cherokee Nation since that time. The evidence produced shows that the said Henry Rider was married to Betsy May, the mother of the applicant, and applicant returned in 1876 she was a child. Her name cannot be found upon any of the rolls of the Cherokee Nation except the Wallace roll and she is duly identified upon the Wallace roll. Her child, Easter, is duly identified upon the census roll of 1896; her father, Henry Rider is duly identified upon the authenticated roll of 1880, all according to the page and number of the rolls as indicated in the testimony. She avers that the said Easter is her child, consequently Josie Alberty and her child, Easter, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. They will be notified of the action of the Commission when the same is arrived at.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, J. O. Rosson,
Subscribed and sworn to before me this 12th day of July, 1901.

Signed, T. B. Needles,
Commissioner.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the said is a true and correct copy from the original.

Sworn to and subscribed before me this 12th day of July, 1901.

Bruce C. Jones
M. Green
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 27th, 1901.

In the matter of the application of George Rider for enrollment as a Cherokee Freedmen; said Rider being sworn and examined by Commissioner T B. Needles, testified as follows:

Appearances:

Messrs. Mellette & Smith, for Applicants.

Messrs. W.W.Hastings and J.S.Davenport, for Nation.

- Q What is your name? A George Rider.
- Q How old are you? A About 40.
- Q What is your postoffice address? A Lenapah.
- Q What district do you live in? A Cooweescoowee.
- Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
- Q Who do you want to enroll besides yourself? A Myself.
- Q Does your name appear upon any of the rolls of the Cherokee Nation? A Not that I know of.
- Q What is your father's name? A Henry Rider.
- Q What is your mother's name? A Elizabeth.
- Q Are they living? A Yes, sir.
- Q Is your mother a Cherokee Freedman? A Yes, sir.
- Q Is her name on any of the rolls of the Cherokee Nation? A No, sir.
- Q Where were you born? A I was born in the Cherokee Nation.
- Q Josie Alberty is your sister? A Yes, sir.
- Q Whereabouts were you born? A On Grand River.
- Q Have you lived in the Cherokee Nation ever since? A No, sir.
- Q Well, where have you been living? A I have been here part of the time.
- Q Well, what part of the time? A Since '76.
- Q Have you been here since '76? A Yes, sir.
- Q Where did you live before that? A Lived in the State.
- Q What State? A Kansas.
- Q You have been here since '76? A Yes, sir.
- Q Why isn't your name on the roll of 1880? A I don't know.
- Q Did you apply to have it put on the roll of 1880? A My father did.
- Q Well, they refused to do it; your father's name isn't on the roll of 1880? A Yes, sir.
- Q Is your father's name on the roll of 1880? A Yes sir.
- Q Your father was named Henry Rider? A Yes, sir.
- Q Did you apply to the Kern-Clifton Court to get your money? A I never got any.
- Q You never drew any? A I drew the Wallace money.
- The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon; name of applicant's father appear upon the 1880 Authenticated Roll, page 161, #2315, Henry Rider, Cooweescoowee.
- The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 155, #2821, Cooweescoowee District.
- Q Did your father have a wife named Mariah? A Yes, sir.
- Q Your father was married twice was he? A I guess he was.
- Q Was Mariah his first wife? A No, sir.
- Q Second wife? A Yes, sir.
- Q Mariah Rider your stepmother? A Yes, sir.
- Q Are you a brother of Josie Alberty? A Yes, sir.
- Q And Josie applied here the other day? A Yes, sir.
- Q Were you here when she applied? A Yes, sir.
- Q You are a full brother by the same mother of the Josie Alberty who applied here? A Yes, sir.

Q Now, have you and Josie another full brother? A We have a full brother, Henry.

Q He is a full brother also is he? A Yes, sir.

Q Where do you live? A I live in Cooweescoowee District.

Q What is your postoffice? A Lenapah.

Q How long have you lived there? A I have been living there since '76.

By Mr. Hastings:

Q Where did you come from in '76? A We come from Ossawatimie.

By Com'r Needles:

Q Where is that? A In the State of Kansas.

By Mr. Hastings:

Q Did your mother come with you? A No, sir.

Q Did she continue to live up there? A Yes, sir.

Q Is she living there? A Yes, sir.

Q Where? A She is at home.

Q At Ossawatimie? A No, sir, down here in the Nation.

Q When did she come down here? A I don't know.

Q Was that after 1876? A Little bit afterwards.

Q You were with your mother during the war? A Yes, sir.

Q You were taken out at the beginning of the war? A Yes, sir.

Q And you come back here in '76? A Father come after us.

Q In '76? A Yes, sir.

Q Now, have you ever been out of the Cherokee Nation to work since that time? A Yes, sir.

Q Where? A In Coffeyville.

Q Any place else? A No.

Q Have you been married? A No, sir.

Q Never were? A No, sir.

Q You have resided then continuously in the Cherokee Nation since '76? A Yes, sir.

By Com'r Needles:

Q You say your father went after you at Ossawatimie himself in '76?

A He may have come before that.

Q He brought you and your mother? A Three children of us.

Q Didn't bring your mother? A No, sir.

Q Where was Mariah at that time? A They were living together.

Q Mariah and Henry were living together? A Yes, sir.

Q Did he have any children by Mariah? A Yes, sir.

Q They were younger than you? A Yes, sir.

Q Your mother was his first woman? A Yes, sir.

By Mr. Hastings:

Q Did you apply to the Kern-Clifton Commission yourself?

A No, sir.

Q You didn't come in and make a statement? A No, sir, I sent Josh Alberty.

By Com'r Needles:

Q Do you know how long your father, Henry Rider, has been living with Mariah Rider? A I don't know.

Q Your father must have had two wives at that time?

A He got more than that.

By Mr. Smith:

Q You don't know about that, you can guess at it? (No response.)

By Com'r Needles:

Q Do you know that do you know that he had more than two wives?

A Had another woman.

Q He didn't live in Utah did he? A I don't know anything about Utah.

Q Do you know that he was living with your mother and Mariah at the same time? A He was living with Mariah.

Q Your mother was his first wife? Yes, sir.

Q The war parted them? A No, sir.

Q He was not with her up in Kansas? A No, sir.

Q Where was he married? A He was down here.

- Q He was living with Mariah down here and your mother up there?
A No.
Q Why do you say no? A He went up there and got up children and left her.
Q When your children got down here he was living with Mariah?
A Yes, sir.
By Mr. Hastings:
Q What is your oldest sister's name by your mother?
A Josie Alberty.
Q How old is she? A She is a year or two older than I am.
Q Did you know Polly Rider? A Yes, sir.
Q Was she Mariah's child? A No, sir.
Q Did you know Toney Rider? A Yes, sir.
Q She was Mariah's child? A No, sir.
Q She was your father's child? A Said to be.
Q And not by your mother? A No, sir.

Com'r Needles: George Rider applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. He is duly identified upon the Wallace Roll. He avers that he is a child of Henry Rider, and his father, Henry Rider, is found upon the authenticated roll of 1880 according to the page and number of the roll as indicated in the testimony. He avers that he is a sister of Josie Alberty and same father and same mother of Josie Alberty, who has been listed for enrollment upon doubtful card #870, and the testimony taken in the matter of the enrollment of Josie Alberty will be made part of the record in the case at bar, and a copy thereof filed herewith. Reference is made as to the residence of the said George Rider. He will now be listed for enrollment as a Cherokee Freedman upon a doubtful card. He will be duly notified of the action of the Commission in the premises.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, J. O. Rosson,
Subscribed and sworn to before me this 15th day of July, 1901.

Signed, T. B. Needles,
Commissioner

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 31st of July, 1901.

M. D. Green
Notary Public.

enrollment as a Cherokee Freedmen upon a receipt card.
 Hence of the said George Elder. He said that he listed for
 the said Elder herewith. Reference is made as to the real-
 made part of the record in the case at bar, and a copy
 the master of the enrollment of Josiah Alperly. His be-
 ment upon receipt card #880, and the testimony taken in
 same matter of Josiah Alperly, who has been listed for enroll-
 list he is a father of Josiah Alperly and same father and
 number of the roll as indicated in the enrollment. He said
 the unauthenticated roll of 1880 according to the same and
 Henry Elder, and the father, Henry Elder, is now dead
 aged upon the Alperly roll. He says that he is a child of
 roll of 1880 of the same roll of 1880. He is not identi-
 of himself. He cannot be identified upon the unauthenticated
 roll, he says: George Elder, father of the enrollment

Q And not a young mother? A No, sir.
 Q The was your father's child? A Yes, sir.
 Q The was Henry's child? A No, sir.
 Q Did you know Henry Elder? A Yes, sir.
 Q How old is he? A He is a father of two children and
 Josiah Alperly.
 Q What is your oldest child's name? A Josiah Alperly.
 Q Yes, sir.
 Q When your children got born how old were you?
 A Yes.
 Q How old were you? A He was the first child.
 A No.
 Q He was living with you when he was born?

DEPARTMENT OF THE INTERIOR
 COMMISSION TO THE FIVE CIVILIZED
 TRIBES
 AUG 2 1901

DQ, 918

Copy

IN RE

Application for Enrollment of

INFANT CHILD

Carlos Miter

as a citizen of

Kororee

Nation

Approved Aug 17 1901

T. J. McCarroll

Commissioner.

Department of the Interior
 Commission on the Indian
 Files

Aug 18 1901

Wm. B. G.

Acting Chief

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Copy

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Carley Rider, born on the 25th day of Sept., 1888
(Here insert name of child.)
Name of Father: Henry Rider Jr. a citizen of the Cherokee Nation.
Name of Mother: Mrs. M. Rider, dead a citizen of the U. S. Nation,
Postoffice Seneca, S. C.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, _____, on oath state that I am _____
years of age and a citizen by _____, of the _____ Nation;
that I am the lawful wife of _____, who is a citizen, by _____
of the _____ Nation; that a _____ child was
(Male or Female.)
born to me on _____ day of _____, 1888; that said child has been named _____
and is now living.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Subscribed and sworn to before me this _____ day of _____, 1901.

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, Elbeth Rider, a midwife, on oath state that I
attended on Mrs. Martha Rider, wife of Henry Rider Jr.
on the 25th day of Sept., 1888, that there was born to her on said date, male
(Male or Female.)
child; that said child is now living and is said to have been named Carley Rider
Elbeth Rider

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Subscribed and sworn to before me this 10 day of Aug., 1901.

Notary Public.

W. E. Swichell
Henry Rider Jr.
Seneca, S. C., Sept. 11, 1901

72 *20* *E. C. 918*

Copy
IN RE
Application for Enrollment of
INFANT CHILD

Anna B. Miller
as a citizen of
Cherokee Nation

Approved *Aug 17* 1901
J. B. Needles
Commissioner.

Department of Interior
Commissioner of Indian Affairs
Field

Aug. 17, 1901
W. S. H. H. H.
Acting Chairman

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Copy

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Thomas B. Rider, born on the 1st day of Nov., 1889
(Here insert name of child.)
Name of Father: Henry Rider Jr. a citizen of the Cherokee Nation.
Name of Mother: Marta Rider dead a citizen of the U. S. Nation.
Postoffice Senapah N.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, Dora B. Rider, on oath state that I am
years of age and a citizen by Dora B. Rider of the Cherokee Nation;
that I am the lawful wife of Henry Rider Jr. who is a citizen, by
of the Cherokee Nation; that a Female child was
(Male or Female.)
born to me on 1st day of Nov., 1889; that said child has been named
Dora B. Rider, and is now living.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Subscribed and sworn to before me this 10 day of Aug., 1901.

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Nancy Duncan, a mid wife, on oath state that I
attended on Mrs. Marta Rider, wife of Henry Rider Jr.
on the 1st day of Nov., 1889; that there was born to her on said date a Female
(Male or Female.)
child; that said child is now living and is said to have been named Dora B. Rider

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Seal

Subscribed and sworn to before me this 10 day of Aug., 1901.

Wm E. Twichell
Notary Public.

My Com. Ex. Sept. 11/1901

1565

20

Sept 1898

IN RE

Application for Enrollment of

INFANT CHILD

Succow Miller

as a citizen of

Cherokee

Nation

Approved

Aug 10

1901

L. B. Miller

Commissioner.

Department of the Interior
Commissioner of the General Land Office
Filed

Aug. 17, 1901

Thos. B. Bly

Acting Chairman

Coby

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the *Cherokee* Nation,
of *Suellen Rider* (Here insert name of child.) born on the *9th* day of *June*, 1891.
Name of Father: *Henry Rider Jr.* a citizen of the *Cherokee* Nation.
Name of Mother: *Martha Rider* a citizen of the *U.S.* Nation.
Postoffice *Tanapah LaF.*

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, _____, on oath state that I am _____
years of age and a citizen by _____, of the _____ Nation;
that I am the lawful wife of *Dead*, who is a citizen, by
_____ of the _____ Nation; that a _____ child was
(Male or Female.)
born to me on _____ day of _____, 1901; that said child has been named
_____, and is now living.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

Subscribed and sworn to before me this _____ day of _____, 1901.

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
DISTRICT.

I, *Elizabeth Rider*, a *midwife*, on oath state that I
attended on Mrs. *Martha Rider*, wife of *Henry Rider Jr.*
on the *9th* day of *June*, 1891; that there was born to her on said date a *Male*
(Male or Female.)
child; that said child is now living and is said to have been named *Suellen Rider*.

WITNESSES TO MARK:

(Must be Two
Witnesses.)

W. E. Twichell
Henry Rider Jr.

Subscribed and sworn to before me this *10* day of *Aug.*, 1901.

Notary Public.

Wm. Coby, Given Sept 14/1901

COMMISSIONERS:
HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory AUG 23 1901 1901.

Received of the Commission to the Five Civilized
Tribes one copy of the testimony in the matter of the
application of Henry Bixby for en-
rollment as Cherokee Freedmen.

Cherokee Freedmen # 8978

William L. Brown
Att'y for applicant

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 20 1901

ACTING CHAIRMAN

ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Henry Rider ~~ex~~
for enrollment as a Cherokee citizen;

Case No. D 918

To Henry Rider or Collette A. Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Fort Clinton, T. Indian Territory, on Sept. 26th at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 9-15-1901

L B Bell
M. M. Hastings
Attorneys for the Cherokee Nation.

-R-

SUPPLEMENTAL: C.F. D- 918, Henry Rider.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., Sept. 27, 1901.

In the matter of the application of Henry Rider for enrollment
as a Cherokee Freedman;

TESTIMONY ON THE PART OF THE CHEROKEE NATION.

Appearances:

Mr. Smith, of Mellette & Smith, att'ys for applicant;
Mr. W.W. Hastings, attorney for Cherokee Nation.

BENJAMIN NAVE, being sworn, and examined, testified as follows:
BY MR. HASTINGS:

- Q What is your name? A Benjamin Nave, or Rollin.
Q What is your age? A 37.
Q What is your post-office? A vinita.
Q Are you a recognized citizen of the Cherokee Nation? A I am.
Q Do you know an applicant for enrollment as a Cherokee Freedman
name of Henry Rider, Jr., who lives at Lenapah? A Yes sir.
Q Mr. Bane, how long have you known him? A I have known him since
'90, or '91.
Q Where did you first see him? A First saw him in Coffeyville,
he was coming to Gooseneck Bend, hunting his people.
Q Did you have any conversation with him? A Yes sir.
Q What was the conversation about, that is, I mean, about his re-
sidence? A I met him in Coffeyville, and some one told him I lived
down in the neighborhood where his folks lived, and he come to me
and wanted to know if I knew his people; I told him I did; and he
asked me how soon was I going down there that way; I told him I was
going out pretty soon, and he rode out in the buggy with me down
as far as Bill Vann's, that was in about a quarter of where he
wanted to go.
Q And you directed him to his mother's? A Yes sir.
Q Did he know anything about the country at that time? A No sir,
it was the first time he ~~sk~~ had been down there he said; he lived
in Ottawa, Kansas; he left his family down there and had come to
look out a location.
Q Was he married at that time? A Yes sir, said he was.
Q Where did he marry? A In Ottawa I suppose, that's where he
said he married.
Q Did you see him after that? A Yes sir.
Q About how long? A He ~~said~~ stayed there probably a couple of
months and went back and was gone about a year, and then he come
back and brought his family; after he had been down there probably
6 or 8 months his wife taken sick and died; we set up with her the
night she died.
Q Did he have some children? A Had 3.
Q You know whether they were born before or after he came down here?
A He brought them with him.
Q What were the children's names? A I don't know their names.
Q Did you know his wife's name? A No sir.
Q What year was it you say he brought his wife down there? A Well
the first time he come it was right after the Wallace payment, and
he stayed down there a couple of months and went back, and he was
gone about a year, and come back again with his family.
BY MR. SMITH:
Q Now what Rider was that you are talking about? A Henry Rider.
Q You know who his father was? A No sir.
Q You know who his mother was? A They called her Aunt Polly Rider.
Q Now that was just after the Wallace court? A Yes sir, after the
Wallace payment.
Q Did you testify against this man before the Kerns Clifton court?

Henry Rider sup'l 2

A No sir, I didn't testify against any one.

Q Where do you live now? A I live in Vinita.

Q Well you knew this then didn't you, when the Kerns Clifton court was in session? A Yes sir, but I wasn't around with the Kern Clifton Court, I had other business.

Q Are you around with this court? A Not particular around with it, but I am here now, summonsed here.

Q What is your business now? A My business is common laborer.

Q Aren't you in the employ of the Cherokee Nation now? A I am a witness here, summonsed here.

Q How long have you been a witness? A Why I have been here probably about three weeks.

Q Were you a witness when the Commission was taking testimony on the rounds when they were taking applications at Vinita and Chelsea and Nowata? A No sir, I wasn't no witness.

Q Where were you then? A I was employed by the Cherokee Nation then.

Q Well aint you employed still by the Cherokee Nation? A Yes sir.

Q In what capacity are you employed?

BY MR. HASTINGS: Now, Mr. Smith, I submit that that doesn't impeach this man; that's no way of impeaching him; he says he is subpoenaed here as a witness.

BY MR. SMITH: All of these questions go for what they are worth I think as affecting the credability of the witness; I think it is competent, I wouldn't have offered it.

BY COMMISSION: Objection will be noted; answer the question.

Q Question was in what capacity you are employed? A Why to look after these people that haven't got no right on this roll.

Q That's your business? A Yes sir.

Q You are a Freedman are you? A Yes sir.

Q Have you ever been arrested for anything? A Yes sir.

Q What? A Assault and attempt to kill.

Q What else? A Nothing.

Q Were you tried? A Yes sir.

Q Where? A Fort Smith.

Q Is that the only thing you were ever arrested for? A Yes sir.

Q That's the only thing you were ever tried for? A Yes sir.

BY COMMISSION: This testimony will also be made a part of the record in Cherokee Freedmen cases number D-870, and D-915.

-----*****-----

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this October 8th, 1901.

J. L. Smith

Commissioner.

D-312.

of the record in Cherokee Freedmen's cases number D-820, and

BY COMMISSIONER: This testimony will also be made a part

of that the only thing you were ever tried for? A Yes sir.

Q Where? A Bolt Smith.

Q Were you tried? A Yes sir.

Q What else? A Nothing.

Q Where? A Vassett and attempt to kill.

Q You are a Freedman and you are now? A Yes sir.

Q That's your business? A Yes sir.

Q After these people that haven't got no right on this list.

BY COMMISSIONER: Objection will be noted; answer the question.

I think it is competent; I wouldn't have offered it.

BY MR. SMITH: All of these questions to the witness;

is subpoenaed here as a witness.

Imbecile this man; that's a no way of imbeciling him; he says he

is what everybody else was employed.

Q Well you are employed still by the Cherokee Nation? A Yes sir.

Q Where were you then? A I was employed by the Cherokee Nation

Greene and Nowell. A No sir, I mean, no witness.

Q Were you a witness when the Commission was taking testimony on

spit about three weeks.

Q How long were you there? A I have been here about

witness here, announced here.

Q When? A In the employ of the Cherokee Nation now? A I am a

put I am here now, common and here.

Q Are you along with the Commission? A Not particularly along with it,

you know, I happened here as.

Q Well you know this that you are now? A When the Kerns Circuit court

Q Where do you live now? A I live in Atlanta.

Q No sir, I didn't feel like being any one.

Heard Bigler and, J S

DEPARTMENT OF THE
COMMISSION TO THE FIVE
FILED
OCT 11 1901

F. D. 918

**INDIAN TERRITORY,
CHEROKEE NATION.**

I hereby certify that I served the with-
in notice on.....

by delivering a true copy thereof on the
..... day of..... A. D. 190....

Given under my hand this.....
day of..... A. D. 190....

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

19 day of Apr 1902.

Mellie G. Smith
Attorney for applicant.
Geo. L. Brown

**UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.**

I do solemnly swear that I delivered a
true copy of the within notice to

.....
on the..... day of..... A. D. 190....

Subscribed and sworn to before me
this

.....
Notary Public.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 20 1902

Wm. H. H. H.
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Henry Rider,
for enrollment as Cherokee Freedmen:

Case No. F. D. 918

To Henry Rider or to Hallett A. Smith his attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on April 22nd, 1902, at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this April 19, 1902.

L. B. Bell

W. W. Hastings
Jas. Davenport
Attorneys for the Cherokee Nation.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., April 22, 1902.

In the matter of the application of Josie Alberty et al for enrollment as Cherokee Freedmen.

SUPPLEMENTAL TO D-670.

Applicants represented by Nollotte & Smith, Vinita, I. T.
Cherokee Nation represented by James S. Davenport.

WILLIAM M. MARTIN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A William M. Martin.

Q Where do you live, Mr. Martin? A I live at Ossawatimie, Miami County, Kansas.

Q How long have you lived at Ossawatimie in the state of Kansas?

A Since December, '88.

Q Since you lived at Ossawatimie did you get acquainted with a colored family by the name of Rider? A Yes, sir, I know some colored people there by the name of Rider.

Q Where were they living when you first got acquainted with them?

A They were living about four miles south of Ossawatimie, on a farm called the Prescott farm.

Q Do you know what the old lady's name was? A I think her name was Betsy.

Q Were there any children in the family, any sons and daughters?

A Yes, sir, there were some children.

Q Do you know what their names were? A I remember George Rider and Henry Rider, and I think there was a girl named Josephine.

Q How long did you know these people there, Mr. Martin, in that county, the neighborhood where you lived? A Well, I knew them around there in that neighborhood, it was in town or living in the immediate vicinity, up till along in '70s I reckon.

Q How late in the '70s do you have any definite recollection of their living there? A Well to the best of my recollection it was in '77, fall of '77, late in the fall.

Q What, if any, circumstance, happened that makes you remember that they were living there at that time? A These two young Riders were shot there by a white man.

Q Was the man any relation of yours by which you remember that?

A Yes, sir, he was a brother-in-law of mine.

Q Who was it that shot the boys? A John Snider.

Q Do you remember anything about whether or not he was tried for it, and what year it was? A I think it was at the October term of '78.

Q Now after that did this family move away from Kansas, Mr. Martin?

A Yes, sir, moved away sometime after that.

Q Have you any knowledge as to where they went? A No, sir, only I heard that there was some parties from the Territory was going to come up and did come up, and moved them down here.

Q You heard that; well now, was that after the boys were shot? A Yes, sir.

Q And they went away from the neighborhood then? A Yes, sir.

Q Now when was it you first got acquainted with Betsy Rider and these boys and girls? A '85; June, '85.

Q After you got acquainted with them how near did they live to you at any of the time or all of the time up to this shooting? A Well they lived right there in town where I lived sometime, and probably two or three miles out in the country part of the time.

Q Were they living in the country or town when this trouble came up between Snider and these boys? A Town, living across a block and a street from where I was living--no, I am mistaken about that, I was living in the country at that time on a farm. I had been living a block and a street from where they were living when they were shot.

MR. MELLETT: Do you know the applicant here, Josie Alberty? A Well, I knew a Josie there, I guess they are the same; I don't know her by that name though.

Q Well, do you know whether this Josie you are talking about is the applicant in this case? A No, sir, I haven't seen her since she came away from there; don't know whether she is the applicant or not.

Q Where was this Josie in '68? A Why she was living there.

Q Did you watch her all the time? A Oh, no, I didn't watch her all the time.

Q You don't know whether she left there for any time or not and returned, do you? A Well, I never knew of her being away.

Q Well, you didn't pay any particular attention to her, did you?

A No, sir, I never did.

Q What county do you live in in Kansas? A I live in Miami County.

Q How far is that from the Kansas line? A From the east line?

Q From the Cherokee line? A Well, right due south of Ossawatimie is about 120 miles from the Cherokee line.

Q Well, you knew of these people living in that country now, and you didn't pay special attention to them, and yet at this date, thirty-five years ago, you could remember just whether they were absent for a month or two at a time or not, could you? A Well, I couldn't say as to that; but I never knew of their being absent.

Q Well, would you likely remember it at this time now? A If they were absent?

Q Would you remember? A I think I would.

Q You could remember now thirty-five years ago? A If I had known of their being absent.

Q Well, but what would have impressed it on your mind, the fact of them being away from there? A Why simply the fact of their going from the neighborhood.

Q But then they might have been absent without your knowing anything about it, couldn't they? A Possibly, yes, sir.

Q You don't know about that? A No.

Q Well, when were you first spoken to about the time and asked as to whether you remembered about these people or not? A In this case?

Q Yes, sir. A About three weeks ago.

Q You hadn't thought very much about these people up to that time?

A I hadn't paid any attention.

Q Hadn't paid any attention to them? A No, sir.

Q And then you remembered thirty-five years back and attempt to locate these people every month in the year? A No, sir.

Q Don't pretend to do that? A Don't pretend to locate them every month in the year, but I used to see them frequently all this time.

Q You can't remember now just how often you saw them? A No, sir, sometimes I used to see them every day, and then maybe I wouldn't see them for a week.

Q They weren't particular associates of yours? A No, sir.

R. W. DUNCAN, being first duly sworn, testified as follows:

MR. DAVENPORT: What is your name? A R. W. Duncan.

Q Where do you live, Mr. Duncan? A I live on the Pottawatomie.

Q What is your postoffice? A Ossawatimie.

Q Kansas? A Yes, sir.

Q How long have you lived in and around the neighborhood of Ossawatimie, Kansas? A Well, about 35 or 4 years.

Q Where were you living at the close of the war? A At Ossawatimie; that is, on a farm in Ossawatimie Township, close to Ossawatimie.

Q While you was living there after the close of the war did you know a colored woman by the name of Rider, and family? A Yes, sir.

Q Do you know what her first name was? A Betsy Rider.

Q Do you know whether or not she had any children of her own that went by her name? A Yes, sir.

Q What were their names? A The oldest one's name is Julius or something like that; it's been a long time for a person to recollect anything they saw without a written memory without they were interested in it.

Q Well, give the names, if you remember them; if you don't why--

A And I think then there was one named Josephine if I ain't mistaken.

Q Well, were there any others? A Yes, sir, there was two boys, George and Henry.

Q How long did they live in your neighborhood or near you after you became acquainted with them, Mr. Duncan? A Well they lived there for I guess as much as six or seven years anyhow.

Q How far from you did they live? A Well, in the neighborhood of betwixt three and four miles.

Q Do you remember anything about the boys having any trouble at any time, or were you living there in that country at that time?

A Yes, sir.

Q Do you know what the trouble was as to whether anybody was hurt or not? A Well, yes, sir, they were both hurt, but one was hurt worse than the other.

Q Well, now, who was it that was hurt? A The worst?

Q Who were the parties? A Why George and Henry.

Q Who? A Rider they called them.

Q Do you know by whom they were hurt? A Well, as I understood it a man by the name of John Snider.

Q Well now was their mother and them still living there in the neighborhood where you had known them at the time they were hurt?

A I think they was.

Q Well do you know, Mr. Duncan, is what I want to get; do you know whether or not they were living there in the country at that time?

A Yes, sir, I know that.

Q Well, now do you know what year that trouble occurred? A Well as near as my recollection, as near as I can recollect, I think it was somewhere along either about about '68 or about '70.

Q You remember when that was; you know that they were living there in the country when the trouble occurred? That was what I have reference to.

MR. MELLETT: You think it was about '70? A Somewheres along there that that occurred.

Q Well, your recollection is not very good about these things that occurred thirty-five years ago? A No, sir, it's not.

Q A man can't do it? A No, sir, not good.

Q When did you first get acquainted with these people? A Why when I first got to Kansas.

Q When was that? A That was in '64, I think, or '65.

Q You don't remember just what date you went there? A No, sir, I don't.

Q Then you were acquainted with them some three or four years?

A Yes, sir.

Q They left there soon after you say that they had some trouble there? A Well, yes, sir, I think they did.

Q Now you don't know whether they made trips down here to the Territory or not? A Well, no; I don't just know about that.

Q You can't tell whether they came down to this country and back or not? A I know there was some come away, and some couldn't get away.

and some of them that did come why they killed some of them on the road or shot them, some got back to home, and they was almost afeard to try to come, and there was some we fear that they couldn't come.

Q But your recollection as to days and years is very ~~indefinite~~ indefinite at this time, isn't it? A Yes, sir, it is to tell the truth about it; I can't recollect very well; I have been shot in the head and I'm getting old.

Q How old are you? A Well, to tell the truth, I'm like lots of other people, I don't know my exact age to a day; I was sold the day before Buchanan three months election and as near as I can recollect I was 27 years old in June before that; the man that sold me and he did sell me, the man that fetched me to Southwest Missouri wanted a boy then, that was my young master, and the man that orled me said I was sixteen years old.

Q Slight difference then? A Yes, sir.

Q You're not very well posted on days or dates are you? A No, I ain't now.

COMMISSION: This testimony will be filed with and made a part of the record in the following Cherokee Freedmen cases: No. D-915, D-918, and D-970, the case at bar.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 25th day of April, 1902.

J. B. Rutter

Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette C. Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Henry Rider, D 918;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decrees because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decrees of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

C. M. McR.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Josie Alberty et al., as Cherokee Freedmen, consolidating the applications of:

Josie Alberty, et al.,
George Rider,
Henry Rider, et al.,

Cherokee Freedmen D-870,
Cherokee Freedmen D-915,
Cherokee Freedmen D-918.

-: D E C I S I O N :-

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Josie Alberty for herself and her minor child, Easter Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Carlos, Flora B. and Luellen Rider.

The evidence shows that the applicants, Josie Alberty, George Rider and Henry Rider, are the children of Henry and Elizabeth Rider, who were slaves of Cherokee citizens at the commencement of the rebellion; that during said rebellion the applicants, Josie Alberty, George Rider and Henry Rider, were taken to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of freedmen to the Cherokee Nation. The applicant, Easter Alberty, is the minor daughter of Josie Alberty and possesses no rights to enrollment except through her said mother. The applicants, Carlos, Flora B. and Luellen Rider are the minor children of Henry Rider, and claim the right to enrollment through their said father, their mother, Martha Rider, possessing no rights as a Cherokee Freedman.

Neither of the applicants herein is identified on the 1880 authenticated Cherokee Tribal roll.

It is, therefore, the opinion of this Commission that the application for the enrollment of Josie Alberty, Easter Alberty, George Rider, Henry Rider, Carlos Rider, Flora B. Rider and Luellen

Rider, as Cherokee Freedmen, should be denied, under the provisions of section twenty-one of the Act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tans Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Muskogee, Indian Territory,
this Jan 10 1905

A F F I D A V I T.

State of Oklahoma)
County of Oklahoma) ss.

Henry Rider, of lawful age, being first duly sworn upon his oath, deposes and says:

That he is the identical person who as Henry Rider, a Cherokee Freedman, is enrolled on the rolls of the Five Civilized Tribes and whose name appears opposite roll No. 4235 and whose census card is No. 1565.

Affiant further states that he is the father of Carlos Rider, a Cherokee Freedman, whose roll is No. 4236 and Flora P. Rider, a Cherokee Freedman, whose name appears opposite roll number 4237, and Luellen Rider, a Cherokee Freedman, whose name appears opposite roll number 4238. Affiant further states that he personally enrolled himself and said children before the Commissioner of the Five Civilized Tribes.

Affiant further states that said Carlos Rider, Flora P. Rider and Luellen Rider, Cherokee Freedmen, whose names appear on the approved rolls of the Five Civilized Tribes, are said and the only children of this affiant; and that said Luellen Rider is the identical person who is enrolled as a Cherokee Freedman, opposite roll number 4238. That the approved rolls show the sex of said Luellen Rider to be a female person in truth and in fact the said Luellen Rider, above referred to is a male person; and that said Luellen Rider is the child of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of the Northeast quarter (NE 1/4) of section twenty-two (22), Township Twenty-eight (28), and Range fifteen (15) East, 1. the county of LeFlore, Oklahoma.

And further that said affiant.

Henry Rider

Subscribed and sworn to before me this 22 day of October, 1924.

M. H. Sumner.
Notary Public.

Recorded in Book Aug-16-1924

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Henry Rider,
Lenapah, I. T.

Cherokee F-D-918

Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

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Committed To the Public Service

FILED

MAR 21 1902



ACTING CHAIRMAN.

COPY.

Cherokee Freedmen
D-918

Muskogee, Indian Territory, October 12, 1904.

Henry Rider,

Lenapah, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of October 7, asking to be advised as to the status of your application for enrollment as a Cherokee freedman.

In reply you are advised that the Commission has not yet rendered a decision in the matter of your said application. When a decision has been prepared you will be furnished with a copy.

Respectfully,

Wm. T. D. Needles.

Commissioner in Charge.

COPY.

Cherokee Freedman
D-918.

Muskogee, Indian Territory, December 28, 1904.

Henry Rider,

Lenapah, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of December 19, 1904, relative to your enrollment as a Cherokee Freedman.

In reply you are advised that the Commission has not yet rendered a decision in this case. When a decision has been prepared you will be furnished with a copy.

Respectfully,

(SIGNED). *Tams Dixby.*
Chairman.

COPY.

Cherokee Freedman
D-870 et al.

Muskogee, Indian Territory, January 10, 1905.

The Honorable,

The Secretary of the Interior

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application for the enrollment of Jessie Alberty et al., as Cherokee Freedmen, including the Commission's decision, dated January 10, 1905, rejecting said application.

Respectfully,

Encl. L-85.

(SIGNED). *Tams Bixby.*
Chairman.

Through the
Commissioner of Indian Affairs.

COPY.

Cherokee Freedman
D-870 et al.

Muskogee, Indian Territory, January 10, 1906.

Edgar Smith,

Attorney for Josie Alberty et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1906, rejecting the applications for the enrollment of Josie and Hester Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. L-84.

(SIGNED).

Tams Bixby.
Chairman.

COPY.

Cherokee Freedmen
D-670 et al.

Muskogee, Indian Territory, January 10, 1906.

Full, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1906, rejecting the applications for the enrollment of Josie and Master Alberty; George, Henry, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Encl. 1-95.

(SIGNED) *Tams Bixby.*
Chairman.

(C O P Y)

Cherokee Freedman
D-918.

Muskogee, Indian Territory, January 10, 1905.

Henry Rider,

Lenapah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 10, 1905, rejecting, among others, the application for the enrollment of yourself and your minor children, Carlos, Flora B., and Luellen Rider, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

(Signed) Tams Bixby.

Chairman.

Encl. L-83.

Register.

Refer in reply
to the following:
Land
3498-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 18, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated January 10, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Josie Alberty for herself and her minor child, Master Alberty; by George Rider for himself; and by Henry Rider for himself and his minor children, Charles, Flora B., and Luella Rider.

January 10, 1905, the Commission decided adversely to all the applicants.

The record shows that the principal applicants, Josie Alberty, George Rider and Henry Rider are the children of Henry and Elizabeth Rider who were slaves of Cherokee citizens at the beginning of the war of the rebellion; that during said war the principal applicants were taken out of the Cherokee Nation and did not return thereto on or before February 11, 1867. The minor applicants possess no rights except through their respective parents, the principal applicants.

None of the applicants is identified on the 1820 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

C. F. Larrabee
Acting Commissioner.

M.M.M.
W.

COPY

Cherokee Freedman
B-918.

Muskegee, Indian Territory, March 3, 1905.

Henry Rider,

Lenapeh, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of February 28, 1905, asking to be furnished with a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee freedman.

In reply you are advised that a copy of the record of proceedings had in this case has heretofore been furnished your attorney, of record, Edgar Smith, Vinita, Indian Territory, and the Commission cannot undertake to furnish the additional copy requested.

Respectfully,

(SIGNED).

C. R. Breckinridge.

Commissioner in Charge.

COPY.

Cherokee Freedmen
Doyle et al.

915 918

Muskogee, Indian Territory, March 3, 1905.

The Honorable

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 18, 1905 (I.T.D. 1704-1905), there are herewith inclosed copies of the Commission's letters, dated January 10, 1905, to the applicants and their attorney, transmitting to them copies of the Commission's decision of that date in the matter of the application for the enrollment of Jemie Alberty et al., as Cherokee freedmen.

Respectfully,

Encl. I-16.

(SIGNED) *C. R. Brockinridge.*
Commissioner in Charge.

(copy)

J.R.W.
W.C.P.
S.V.P.

I.T.D.
1704-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY GENERAL
WASHINGTON.

October 5, 1905.

The Secretary of the Interior,

Sir:

I am in receipt by reference of August 3, 1905, with request for my opinion thereon, of the record in the case of application by Josie Alberty, George Rider, and Henry Rider, for their own enrollment and enrollment of Easter Alberty, daughter of Josie, Carlos, Flora B., and Luella Rider, children of Henry, minors, as Cherokee freedmen.

The three principal applicants are children of Henry Rider and his wife Betsey, or Elizabeth, May, who were both slaves of Cherokee citizens at the outbreak of the war of the rebellion. The principal applicants, according to the testimony, June 1901, were aged, respectively, forty-three, forty, and thirty-nine years, being born in the Cherokee Nation about 1858, 1861, and 1862. During the war they, being minors, were taken out of the Cherokee Nation to Kansas and lived there apparently with their mother until 1876, when their father came from the nation and took them with him into the nation, to which he had returned in the fall of 1865, after being taken

seuth by his master during the war. They ever since resided in the nation. The applicants' father, Henry Rider, is identified on the 1880 authenticated roll of Cherokee freedmen; none of the principal applicants is thereon identified, nor on the Kerns-Clifton roll; all the principal applicants are identified on the Wallace roll; Haster is identified upon the 1896 census roll.

The Commission to the Five Civilized Tribes, for failure of the principal applicants to effect a physical return to the nation until after February 11, 1867, denied enrollment of all the applicants. The Indian Office, February 15, 1905, recommended affirmance of that action.

In my opinion of March 22, 1904, (I. T. D. 641, 1904), construing this provision of the treaty, for reasons then given, I expressed the opinion that:

It is thus clear that resident was not intended to be used in the restricted sense of actual presence in the territory, but in the sense equivalent to legal residence or domicile, and the provision was intended to operate to the benefit of the persons, or classes, described whose legal domicile was in the Cherokee Nation.

This has been followed in the case of Charles Foreman (I.T.D. 6276-1903); Furrell Daniels (I.T.D. 1706-1905); opinions of April 16, 1904, and May 9, 1905, and other cases wherein this principle determined the question as presented to me.

In the present case the family was separated by the casualties of war, but the family relation was not dissolved, nor were the duties and rights arising as incident to it anywise changed. The head of the family when emancipation occurred was Henry Rider, the father. He had been carried south, while the remainder of the family drifted north to Kansas. Henry Rider, in due time under the treaty-- in fact, over a year prior to the date of the treaty -- returned to the nation, established himself there, and resided there until his death, April 19, 1861. He did not recover the actual custody and physical return of his children to the territory until 1876, but the fact that he then did recover them presumptively shows that he had not tried to cast off his legal obligation, if, indeed, he could have done so to prejudice of their rights. As he had neither emancipated his minor children nor abandoned his legal right, the result follows that his domicile was theirs, and that when he was domiciled in, and resident of, the territory, their legal domicile was there. Before their minority ceased, so that they could choose a domicile, their actual residence was established, and has ever since been maintained in the nation,. I am therefore of opinion that the Commission erred, and that the applicants are

4

entitled to be enrolled.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved:

October 5, 1905.

E. A. Hitchcock,

Secretary.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

Y.P.

I.T.D.1704-1905.

October 10, 1905.

LRB

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

There is inclosed herewith a copy of an opinion of the Assistant Attorney-general of October 5, 1905, in the matter of the application of Jessie and Easter Alberty, George, Henry, Charles, Flora B., and Luella Rider for their enrollment as Cherokee freedmen.

In accordance with said opinion, the decision of the Commission to the Five Civilized Tribes, adverse to the claimants, is hereby overruled, and you are authorized to enroll the applicants.

A copy of the Indian Office letter of February 15, 1905, (Land 3408), in which it is recommended that the Commission's decision be approved, is inclosed.

Respectfully,

(Signed) E. A. Hitchcock.

2 inclosures.

Secretary.

Muskogee, Ind. Ter., October 17, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith inclosed protest of the
Cherokee Nation against the motion to reopen the
Cherokee freedmen case of Henry Rider, et al., C. F. D. 918.

Yours very truly,

Bell, Hastings & Davenport

H.M.V.

Attorneys for the Cherokee Nation.

Through the
Commissioner of Indian Affairs.

G.A.W.

Land:
84146-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

October 24, 1905.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to Department letter of October 10, 1905 (I.T.D. 1704-1905) there is enclosed a letter from the attorneys of the Cherokee Nation transmitting the protest of the Nation against the motion to reopen the Cherokee Freedmen case of Henry Rider et al.

The Department by letter referred to, in accordance with an opinion of the Assistant Attorney General of October 5, 1905, authorized you "to enroll the applicants."

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

M.M.M. (W)

Muskogee, Indian Territory, November 6, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

On October 10, 1905 (I. T. D. 1704-1905), the Department transmitted to this office an approved opinion of the Assistant Attorney General under date of October 5, 1905, in the matter of the application for enrollment as Cherokee freedmen of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider, and in accordance with said opinion over-ruled the decision of the Commission to the Five Civilized Tribes adverse to the claimants, and authorized this office to enroll the applicants.

The question involved in this case is the same as in the application of Burrell Daniels, et al., for enrollment as Cherokee freedmen (I. T. D. 1706-1905), and in which case this office takes issue with the views of the Assistant Attorney General as expressed in his opinion of May 9, 1905, and has addressed to the Department a letter under date of September 25, 1905, asking that the approval of the opinion of the Assistant Attorney General be reconsidered.

The action of the Department upon the letter of the Commissioner to the Five Civilized Tribes of September 25, 1905,

has not yet been made known to this office.

It is respectfully recommended that until Departmental action shall have been had upon this letter this office be authorized to withhold the names of Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider from schedules to be transmitted for the approval of the Secretary of the Interior constituting a part of the final roll of Cherokee freedmen.

Respectfully,

Commissioner.

GHL

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

D-870, et al.

Muskogee, Indian Territory, December 21, 1905.

J. J. Bulger,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt, by reference of the Secretary of the Interior, of your letter of December 8, referring to the Cherokee Freedmen enrollment case of Josie Alberty, et al., and asking to be furnished a copy of an approved opinion of the Assistant Attorney General for the Interior Department in said case.

In reply you are advised that on October 10, 1905, the Department transmitted an approved opinion of the Assistant Attorney General, dated October 5, 1905, in the matter of the application for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion overruled the decision of the Commission to the Five Civilized Tribes adverse to the applicants and authorized this office to enroll them.

The question involved in the Alberty case is the same as in another freedmen application for enrollment, in which this office takes issue with the views expressed by the Assistant Attorney General, and under date of September 25, 1905, asked that the approval of the former opinion of the Assistant Attorney General be reconsidered.

Under date of November 6, 1905, this office recommended that until Departmental action upon this office letter with reference to the former opinion of the Assistant Attorney General shall have been had, this office be authorized to withhold the names of the applicants included in the Cherokee Freedmen enrollment case of Josie Alberty, et al., from a schedule to be transmitted for the approval of the Secretary of the Interior.

As the question involved in this case is the same as that which this office has recommended be reconsidered by the Department, it is not deemed advisable to give notice of the Department's decision until the Department shall have acted on this office request for authority to hold in abeyance said decision until the question involved shall have been considered in accordance with the views of this office expressed in its letter of September 25, referred to.

Respectfully,

LS

Commissioner.

D. C. 3554-1906.
I.T.D. 8805-1905.
13206-
LRS

Y. P.
FHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

January 24, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

D. C. 5403-1906.
I.T.D. 8563-1905.
13206- "

LRS

Y. P.
FHE.

SECRETARY'S OFFICE
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

February 7, 1906.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty, et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohan, the latter of this city, September 7, 1905, in the cases of Henry Rider, et al., Josie Rider, et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case.

Respectfully,

(Signed) Thos. Ryan,
First Assistant Secretary.

Muskogee, Indian Territory, June 26, 1906

The Commissioner
of Indian Affairs.

Sir:

On October 10, 1906 (I.T.D. 1704-1906), the Department transmitted to this office an approved opinion of the Assistant Attorney General for the Interior Department, dated October 5, 1906, in the matter of the applications for the enrollment as Cherokee freedmen of Josie Alberty, et al., and in accordance with said opinion reversed the decision of the Commission adverse to the applicants and authorized this office to enroll them.

On November 6, 1906, this office requested authority of the Department to withhold the names of the applicants in said case from schedules to be transmitted for the approval of the Department, until the questions involved in the Cherokee Freedman enrollment case of Burrell Daniels et al. (I.T.D. 1706-05), shall have been passed upon. As yet no action has been taken by the Department in the Daniels case, and no further action has been taken in the Alberty case.

Commissioners-2.

The Indian Office in letter to this office of October 24, 1908 (Land 84146-1908), referring to the Department's letter of October 10, 1908 (I.T.D. 1704-1908), enclosed a letter from the attorneys for the Cherokee Nation transmitting a protest against a motion to reopen the case of Henry Rider, et al. The Nation's reply is enclosed herewith for consideration in connection with the case.

Attention is also called to the Department's letter of February 7, 1908 (I.T.D. 8863, 13206-1908), referring to said cases, stating that "a motion filed by Blue & Bulger and McCowan, Serven & Mohun, the latter of this city (Washington, D.C.), September 7, 1908, in the cases of Henry Rider, et al., Josie Rider et al., and George Rider, which were consolidated with the case of Josie Alberty, et al., does not need further consideration, and has been sent to the Indian Office to be filed with the papers in the case."

Respectfully,

L M B

Commissioner

Encl. B-73

C O P Y .

Lenapah, Indian Territory, July 25, 1906.

To the Honorable,

The Secretary of the Interior.

Sir:

Your letter of the 12th instant, answering mine of June 21, regarding my citizenship case is received.

You notify me that my case is pending before the Department, having been placed on file for re-consideration at the request of the Commissioner to the Five Civilized Tribes, dated November 6, 1905, and is pending the result of the Birrell Daniels case.

I have, by my self and my attorney, written to that same Commissioner asking for the status of my case, and have received no reply to my recent letters, dated after November 6, 1905, and I thought there might be something that Commissioner desired kept from me, or my letters would have been answered.

In my case there is no question about the facts. Upon an agreed state of facts, the Honorable Assistant Attorney General for your Department, has repeatedly held prior to April 26, 1906, that my family is entitled to enrollment. On October 5, 1905, in a test case opinion this conclusion was reached. On January 10, 1906, again this opinion was rendered. The Honorable Commissioner to the Five Tribes has taken a great deal of interest in my case. His interest has caused me heavy attorney fees in the defence of my land. A

received having been appointed on two occasions to hold it until the case is finally decided. Even now the receiver, although once discharged by the court after a third hearing, and then appointed by another judge, is about to cut my hay. My last years corn crop is tied up, and I am too poor to continue a defence of my rights as long as Mr. Bixby can afford to assist the other claimant on a salary of \$5,000 per year, by trying to freeze me out. On October 10, 1905, I was ordered by the Honorable Secretary of the Interior to be enrolled. The Curtis Act of April 26, 1906, is so worded as to not affect my case although Messrs Bixby and Hastings, representing the Cherokee nation, evidently intended that it should effect it. Cases of the status of mine are expressly exempt from the cruel blow given by the Curtis bill to the freedman's homes.

My last years corn crop is held by a receiver whom I have gotten discharged only to find that the Court would consider a complaint to have him reappointed. My hay crop is about to be taken by this receiver, and besides being deprived of the corn I intended to use as a part of my living last winter, I find that the receiver reports the amount he holds very much less than I would have gotten if I had not been held up by and through the efforts of the Commissioner to the Five Tribes.

I know that the Honorable Secretary of the Interior, nor his able assistants do not approve of an effort to rob any one of any thing. I know that the Department has had a very hard time trying to protect the interests of the members of

of the Five Tribes from such unworthy officers as Bixby, and I know that through the efforts of this man Bixby, I have been damaged several hundred dollars since the Department ordered my family and myself enrolled, October 10, 1905.

These things I do know, and I do pray that the Honorable Secretary of the Interior will defend my against the efforts of the Commissioner to the Five Civilized Tribes to rob me and my childern of our home.

Under the law as it was prior to April 26, 1906, my family and I were entitled to enrollment. Having been ordered enrolled prior to that date, the Curtis Act of April 26, does not warrant a denial of my application, and I will close this long letter by again praying the Honorable Secretary of the Interior to assist me to retain for myself and my children, property that is our in law.

Yours Respectfully,

Henry Rider.

P. S.

Lenapah, I. T., July 28, 1906.

Hon. Secretary of Interior,

Washington, D. C.

Sir:

At this date the "receiver" referred to in the above letter has cut about 5 or 10 acres of My hay land referred to in the above letter. This man that has filed on my

land, that I live on. I have been holding for our allotment never has been in possession and has never invested a Dollar in the same. Nor even he never Did make the place. I Hope that you will do something in my behalf that I may be able to protect myself and Family.

I hope to hear from you by return Mail, I remain,

Very Respectfully your obedient servant.

Henry Rider.

Lenapah, I.T.

P.O. Box 81.

Cherokee Freedman
D 918.

Muskogee, Indian Territory, August 1, 1906.

Henry Rider,

Lenapah, Indian Territory.

Dear Sir:

This office is in receipt of your letter of July 23, in which you quote from a letter received from the Department of the Interior advising you that in accordance with the request of this office of November 6, 1905, the placing of the name of yourself and children upon the approved roll of Cherokee freedmen is withheld until the opinion of the Assistant Attorney-General for the Department in the Burrell Daniels case is reconsidered. You ask to be advised why such action was taken in your case.

In reply you are advised that certain questions presented in your case as to the right to enrollment of yourself and children as Cherokee freedmen are the same as those presented in the case of Burrell Daniels, and as the Daniels case is pending before the Department it is not deemed advisable to take any action looking to the final enrollment of yourself and children until the questions pre-

-2-

sented in your case have been settled by the Department in the Daniels case.

Respectfully,

M.A.

Commissioner.

Muskogee, Indian Territory, August 20, 1906.

To The Honorable,

The Secretary of the Interior.

Sir:

On August 10, 1906, the Department referred to this office, by stamp, for report and recommendation thereupon, a letter from Henry Rider, Lenapah, Indian Territory, dated July 28, 1906, with which is enclosed his letter of July 25, in reference to his Cherokee freedman case and his right to crops growing on land claimed as the allotments in the Cherokee Nation of himself and family. He states that the Department notified him in its letter of July 12, that his case was pending before the Department, a reconsideration thereof having been requested by the Commissioner on November 6, 1905; that as he was ordered enrolled by the Department prior to April 26, 1906, the provisions of the Act of Congress approved on that date prevents a reconsideration of his case; and that a receiver has been appointed to control the crops grown on the land he is holding as the allotments in the Cherokee Nation of himself and family.

Secretary--2.

The records of this office show that on January 10, 1905, the Commission to the Five Civilized Tribes rendered its decision in the Cherokee freedman consolidated case of Josie Alberty, et al, D 870, et al, rejecting, among others, the application of Henry Rider for the enrollment of himself and minor children, Carlos, Flora B. and Luellen Rider, as Cherokee freedmen; that on October 10, 1905, (I.T.D. 1704-1905), the Department, in accordance with an approved opinion of the Assistant Attorney General of October 5, 1905, overruled the decision of the Commission rejecting said applicants and authorized the Commission to enroll them as Cherokee freedmen; and that on November 6, 1905, this office requested authority to withhold the names of these applicants from schedules to be transmitted for Departmental approval awaiting a final decision by the Department in the Cherokee freedmen case of Burrell Daniels, et al, the subject of an approved opinion of the Assistant Attorney General, dated May 9, 1905 (I.T.D. 1706-1905), the reconsideration of which opinion this office requested in its letter of September 25, 1905. This office has not been advised of any action taken by the Department in the Daniels case, and awaiting action on this office's request for a reconsideration thereof, no further action has been taken in the matter of the application of

Secretary--3.

Henry Rider.

The provision of the Act of Congress approved April 26, 1906 (Public No. 129), to which Henry Rider refers, is as follows:

"The roll of Cherokee freedmen shall include only such persons of African descent, either free colored or the slaves of Cherokee citizens and their descendants, who were actual personal bona fide residents of the Cherokee Nation August eleventh, eighteen hundred and sixty-six, or who actually returned and established such residence in the Cherokee Nation on or before February eleventh, eighteen hundred and sixty-seven; but this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior."

As the application of Henry Rider for the enrollment of himself and children was pending on April 26, 1906, the clause in the above act to the effect that "this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior," does not apply to his case.

The land in the Cherokee Nation which Henry Rider claims as the allotments for himself and children is not described and this office is therefore unable to advise the status of the same. The records of this office show, however, that on November 9, 1904, Henry Rider appeared before the Commission to the Five Civilized Tribes and

Secretary--4.

claimed as an allotment in the Cherokee Nation for himself, the N2 of NE4 of SW4; the SE4 of NE4 of SW4; the NE4 of SE4 of SW4; and the S2 of SE4 of SW4 of Section 8, Township 28 N., Range 16 E. of the Indian Meridian, which land had theretofore been selected as a partial allotment in the Cherokee Nation for Evie Scott:

For his son, Carlos Rider, the NE4 of SE4 less .92 acres K.&A.V. R.R. right-of-way, and the SE4 of SE4 of Section 7, Township 28 N., Range 16 E., which land had theretofore been selected as a partial allotment in the Cherokee Nation for Buster Scott:

And for his child, Flora B. Rider, the N2 of NW4 of SW4; the SW4 of NW4 of SW4; the NW4 of SW4 of SW4; and the S2 of SW4 of SW4 of Section 8, Township 28 N., Range 16 E., which land had theretofore been selected as a partial allotment in the Cherokee Nation for Edna Scott.

No action has been taken looking to a determination by contest proceedings of the right of these parties to said land, pending the citizenship in the Cherokee Nation of the Riders.

This office has no knowledge of a receiver having been appointed to control the crops grown on the land claim^{ed}

Secretary--5.

by Henry Rider as the allotments for himself and children. His letter is returned herewith.

Respectfully,

Encl. K.A.20-5.

Commissioner.

Through the Commissioner
of Indian Affairs.

Muskogee, Indian Territory, August 22, 1906.

The Commissioner
of Indian Affairs,
Washington, D.C.

Sir:

June 26, 1906, this office, referring to Indian Office letter of October 24, 1905 (Land 84146-1905), and to Departmental letter of October 10, 1905 (I.T.D. 1704-1905), returned a letter from the Attorneys for the Cherokee Nation, transmitting a protest against a motion to reopen the Cherokee Freedmen case of Henry Rider et al., which letter and protest was transmitted to this office with Indian Office letter of October 24. Attention was invited to the Department's letter of February 7, 1906 (I.T.D. 8563, 13206-1905) addressed to this office, referring to the Cherokee freedman case of Josie Alberty, et al., with which was consolidated the case of Henry Rider et al., and stating that there had been filed on September 7, 1905, by Blue and Bulger and McGowan, Serven and Mohun, a motion for review of said case, and that as the decision of the Commission to the Five Civilized Tribes rejecting the applicants

Commissioner--2

in said case was overruled by the Department on October 10, 1905, the motion "does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

The motion referred to by the Department seems to have been inadvertently transmitted to this office with the Department's letter of January 24, 1906 (I.T.D. 8805, 13206-1905), which letter is as follows:

"The Department having in letter to you of October 10, 1905, overruled the decision of the Commission to the Five Civilized Tribes in the Cherokee freedman case of Josie Alberty et al., a motion filed by Blue & Bulger, and McGowan, Serven & Mohun, the latter of this city, September 7, 1905, does not need further consideration and has been sent to the Indian Office to be filed with the papers in the case."

Said motion is returned herewith for proper consideration.

Respectfully,

Incl.B-1
J. M. B.

Commissioner.

Copy.

Land.
73480-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Sept. 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a report from the Commissioner to the Five Civilized Tribes, dated August 20, 1906, on the letter of Henry Rider, of Lenapah, Indian Territory, referred to the Commissioner for report and recommendation by Departmental reference of August 10, 1906.

The report shows that Henry Rider, among others, in the Cherokee freedman case of Josie Alberty, et.al., was denied enrollment by the Commission to the Five Civilized Tribes on January 10, 1905, and that on October 10, 1905, the Department overruled this decision, in accordance with an approved opinion of the Assistant Attorney General, and authorized the Commission to enroll them as Cherokee freedmen. On November 6, 1905, the Commissioner requested authority to withhold the names of these persons from schedules to be transmitted for the approval of the Department until after the final decision of the Department in the Cherokee freedman case of Burrell Daniels, et.al., the subject of an approved opinion of the Assistant Attorney General dated May 9, 1905, and of which the Commissioner requested a reconsideration on September 25, 1905. The records of this Office show that the record in the case of Burrell Daniels et.al. was

forwarded to the Department for its action on January 5, 1906, and the records do not show that any action has been had up to this time. The Commissioner's report further shows that the lands that Henry Rider claimed as allotments for himself and members of his family on November 9, 1904, had theretofore been selected by members of the Scott family, and that no action has been taken looking to a determination of the rights of these parties to the land by contest proceedings, pending the final determination of the citizenship of the Riders. The report also shows that the Commissioner has no knowledge of the appointment of a receiver to control the crops grown on the land claimed by Rider as his allotment.

Attached to a protest and motion, verified by Henry Rider on October 5, 1905, is a copy of a purported complaint at law, filed in the United States Court for the Northern District of the Indian Territory, in which John Scott, on behalf of his children, Buster, Edna and Eva Scott, is plaintiff, and Henry Rider and Josie Alberty are plaintiffs, praying for the recovery of a certain tract of land therein described and \$500 damages for its unlawful detention; also a copy of a purported complaint in equity, between the same parties, over the same land and in the same court, in which plaintiff alleges that defendants are insolvent and unable to respond in damages, and prays the court to appoint a receiver to take charge of the land and crops and hold both until further order of court. These copies were made out to be verified in June 1905, and had to do with the crop of

3.

1906. There is no showing made as to the action of the court in the matter, but taken in connection with the letter of Henry Rider, it does not appear unreasonable to assume that such a receiver was actually appointed and has controlled and harvested not only the crop of 1905 but a part, at least, of the crop of 1906.

The Office would respectfully recommend that if the Department considers it necessary to suspend final action in this case until the Durrell Daniels case is disposed of, that a decision in that case be rendered at an early date, in order that this man may know his rights in the land. In the event that he is enrolled he will likely have to contest the Scotts, and the final settlement of his title can hardly be reached in time to allow him to make a crop in 1907. On the other hand, if he be denied enrollment, it is just to the Scotts that they should know that their title is clear and to be able to farm the land without having the crops tied up in the hands of a receiver. A receivership does not tend to produce good husbandry.

The letter and report are enclosed herewith.

Very respectfully,

F. E. Leupp,

Commissioner.

E.W.E.-NL.

DEPARTMENT OF THE INTERIOR,

I.T.D.

J.R.W.

24506-1906.

OFFICE OF THE ASSISTANT ATTORNEY GENERAL.

Washington,

February 27, 1907.

The Secretary of the Interior.

Sir:

I received by reference of February 20, 1906, the telegram from the Commissioner to the Five Civilized Tribes of February 19, 1906, relative to the case of Lorenzo Newton Davis, subject of my opinion of February 11, 1906, that he is entitled to be enrolled as a citizen of the Cherokee Nation by blood, which opinion he deems in conflict with those in Mary L. Strickland, subject of my opinions of March 12, 1904, and December 25, 1905.

I have examined the opinions referred to and find no conflict. Mary L. Strickland was a Cherokee by blood, married to a white man, citizen of Georgia, where her children were born. She never removed to the nation, though she made several trips there and bought improvements on communal lands. She testified that she could not return to the nation unless she should "quit him", her husband, which she "would not do for the whole Cherokee Nation." I was of opinion that though eligible by blood, the children never acquired Cherokee citizenship and never became integrated into the Cherokee Nation, but remained

in Georgia, allegiance to which they were born.

The case of Lorenzo Newton Davis was radically different. His father was a Cherokee by blood, citizen of Georgia, and being admitted to Cherokee citizenship removed to the nation in 1893, intending to remain, and bought improvements on lands intending to make it his permanent home. In 1895 (March), he brought his wife and family there? Lorenzo Davis was then a minor, and did not attain full age until October, 1904. In 1896, the mother being in ill health, the father took his family back to Georgia, where they have ever since resided, and he disposed of his property in the Cherokee Nation.

I was, and am, of opinion that Lorenzo Newton Davis became integrated into and affiliated with the Cherokee Nation and acquired Cherokee citizenship, as also did his father by the permanent settlement in the nation; that the father lost his citizenship by removal, but that the Cherokee citizenship was not lost by the minor by the father's removal, and he remained a Cherokee citizen, September 1, 1902, being then a minor.

I have also examined the record in the case of Hubert and Robert Henry (I.T.D. 11072-1905), and find that Hubert was born October, 1882, and Robert after September 30, 1887. Hubert and his father were admitted to citizenship in the Cherokee Nation September 30, 1887. Their father, with his children, removed

to the nation in 1889, and with intent to locate permanently, and remained until 1892, when he removed with his family to Texas, and later to Alabama, where he was residing December 29, 1903. June 30, 1905, the Commission found that bona fide residence in the nation was established in 1889; that removal of the miners by their father did not forfeit their citizenship, and that they being minors September 1, 1902, were entitled to be enrolled. The nation protested against their enrollment, and November 2, 1905, the case was referred to me for opinion. December 28, 1905, I rendered opinion, reference to which will show that I failed to consider the effect of minority in preventing expatriation or loss of citizenship once gained. On re-examination of this case I am of opinion that failure to consider the effect of minority of the applicants in my opinion of December 28, 1905, was erroneous, and that the action of the Commission in allowing their enrollment should be approved.

Very Respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved: February 27, 1907.

E. A. Hitchcock,

Secretary.

COPY.

L.R.S.
I.T.D.
18218-1905
8462 and 3138-1907.

DEPARTMENT OF THE INTERIOR,
Washington,

J.P.Jr .
O.K.

February 28, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir: The Department has this day advised you by wire, as follows:

"Referring to your telegram of February 19, 1907, relative to conflict between opinion in Lorenzo Newton Davis and Mary L. Strickland and Hubert Henry, you are advised that the Assistant Attorney General finds no conflict. Hubert and Robert Henry decision rescinded.

Said telegram is affirmed.

There is enclosed for your information a copy of opinion of the Assistant Attorney General for this Department, dated and approved February 27, 1907 in the matter of an apparent conflict between the decisions of the Assistant Attorney General in the case of Lorenzo Newton Davis and of Mary L. Strickland. No conflict is found. Your attention is called to that portion of the opinion wherein the Assistant Attorney General states that his failure to consider the effect of the minority of the applicants in his opinion of December 28, 1905, in the case of Hubert and Robert Henry was erroneous. He now says that the decision of the Commission dated June 30, 1905, should be approved.

In accordance with this opinion, departmental decision of January 3, 1906, reversing the decision of the Commission to the Five Civilized Tribes, dated June 30, 1905, is hereby rescinded, and you are directed to enroll Hubert and Robert Henry as citizens by blood of the Cherokee Nation.

The records in the Henry case, the Battles case, and the Davis case are returned for the files of the Indian Office.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inc. and 21 inc. for
Indian Office.

A.F.Mc
3-1-07.

Copy.

Muskogee, Indian Territory, February 28, 1907

Direct

Special

The Honorable,

The Secretary of the Interior.

Dear Sir:

October 10, 1905 (ITD 1704-1905), the Department transmitted to this office a copy of an approved opinion of the Assistant Attorney General of October 5, 1905, in the matter of the application for the enrollment of Josie Alberty, et al., as Cherokee freedmen, and in accordance therewith overruled the decision of the Commission to the Five Civilized Tribes adverse to Josie and Easter Alberty, George, Henry, Carlos, Flora B., and Luella Rider.

On November 6, 1905, the Commissioner reported that the question involved in the case of Josie Alberty, et al., is the same as in the Cherokee freedman case of Burrell Daniels, et al., which case was the subject of an opinion of the Assistant Attorney General approved by the Department (ITD 1706-1905), and as the Commissioner on September 25, 1905, requested that said Daniels case be reconsidered, it was recommended that until the Department had acted upon this request for a reconsideration of the Daniels case, he be authorized to withhold the names of the applicants in the case of Josie Alberty, et al., from schedules to be transmitted for the ap-

preval of the Department, until his said request had been acted on. This office has not been advised of any further action taken by the Department in the case of Burrell Daniels, et al.

In view of the record in the case and of Section three of the Act of Congress approved April 26, 1906, (34 Stat. 137), it is respectfully recommended that the Department rescind its decision of October 10, 1905, and that the applications for the enrollment of the applicants embraced in the case of Jessie Alberty and others, be denied.

There is inclosed, for Departmental approval in the event it adheres to its said decision of October 10, 1905, a schedule containing the names of these applicants.

Respectfully,

Commissioner.

SPECIAL.

G.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHR.

D.C.12988-1907.
I.T.D.1704-05.
16058-1906.
IRS.

March 4, 1907

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 20, 1906, you reported relative to your withholding the enrollment of Henry Rider and his minor children, Carlos, Flora B., and Leullen Rider, as Cherokee freedmen, wherein the Department, on October 10, 1905 (I.T.D. 1704), overruled the decision of the Commission to the Five Civilized Tribes adverse to the applicants and authorized you to enroll said applicants.

In view of the provision in section 3 of the act of April 26, 1906 (34 Stat., 137), relative to the roll of Cherokee freedmen, concluding with these words:

but this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes or its successor and has been adjudged entitled to enrollment by the Secretary of the Interior,"

the Department does not believe that the recent ruling of the Assistant Attorney-General of February 27, 1907, in the case of Burrell Daniels (I.T.D.5464), applies to the case of Henry Rider and his children, who were "adjudged entitled to enrollment by the Secretary of the Interior" on October 10, 1905. You are accordingly directed to enroll Henry Rider and his minor

-2-

children, Carlos, Flora B., and Luellen Rider, as Cherokee freedmen.

You will advise the applicants of this action.

Your report with accompanying papers has been sent to the Indian Office. A copy of Indian Office letter of September 7, 1906 (Land 73480-06), relative to said case, is inclosed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inc. and
5 for Ind. Of. with
copy hereof.

A. F. Mo.
3-4-07.

(COPY)

Y.P.
FHE

D. C. 15489-1907
I.T.D. 7966-1907

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 4, 1907

DIRECT
L R S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the opinion of the Assistant Attorney General in the matter of the application of Jessie Alberty et al., for enrollment as Cherokee freedmen, the schedule containing the names of the parties, received with your letter of February 28, 1907, is approved, notwithstanding your suggestion that the parties should not be enrolled.

The Department has communicated with you in regard to this matter. The schedule will be disposed of in the usual manner.

Respectfully,

(Signed) R. A. HITCHCOCK
Secretary

2 inc. and
1 for Ind. Of. with
copy hereof.

A. F. Mc.
3-5-07.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED

23,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Receiver's No.	Time Filed	Check

SEND the following message subject to the terms }
on back hereof, which are hereby agreed to.

USDO, Immigration Territory,
March 2, 1907.

A. T. [redacted],
[redacted], Interior Department,
Washington, D. C.

[illegible]

READ THE NOTICE AND AGREEMENT ON BACK.

(COPY)

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Washington, D. C., March 14, 1907.

Commissioner to the
Five Civilized Tribes,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed Departmental letter of March 4, 1907 (I T D 7966-1907), relative to the schedule prepared by your office, containing the names of Josie Alberty, et al., for enrollment as Cherokee freedmen, and which was the subject of your letter of February 28, 1907.

When the parties included in said schedule were ordered enrolled they were placed on a schedule prepared by your representatives at Washington, opposite numbers 4235 to 4241 inclusive, the schedule being approved March 4, 1907.

When this duplicate enrollment was discovered the copies prepared by you were returned to the Department unnumbered for such action as the Department may consider necessary.

Respectfully,

(Signed) A. F. McGarr.

Enclosure.

D.C. 17134-1907

J.P.

DEPARTMENT OF THE INTERIOR,

LLB

WASHINGTON.

I.T.D. 7966-1907
8590- "

March 19, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

In communication of March 13, 1907, your representative here, Mr. McGarr, called attention to the fact that the Department on March 4, 1907, approved a schedule of Cherokee freedmen, without numbers, containing the names of Josie and Easter Akberty, George, Henry, Carlos, Flora B., and Luella Rider, which schedule was prepared by you and submitted with your letter of February 28, 1907.

Previous to the receipt of this schedule the Department had approved a schedule prepared by Mr. McGarr in accordance with departmental letter to you of March 4, 1907, bearing the names of such persons, opposite Nos. 4235 to 4241, inclusive.

The schedule prepared by you being superfluous, its approval has been cancelled.

A copy of the letter of your representative of March 13, 1907, has been sent to the Indian Office; also copy of departmental letter of March 4, 1907, first written, under which the roll was prepared.

Respectfully,

(Signed)

Jesse E. Wilson,

Assistant Secretary.

Through COM. of Ind. Aff.
2 inc. to Ind. Off.

Cherokee V.
D-918

CONFIDENTIAL

Muskogee, Indian Territory, March 20, 1907.

Henry Rider,

Lebanah, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of a letter from the Secretary of the Interior, dated March 4, 1907, granting the application for the enrollment of yourself and minor children as Cherokee freedmen.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *James C. ...*

Encl. H-49
JMR

Commissioner.

Cherokee F.
D-918

COPY

Muskogee, Indian Territory, March 20, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that this office is in receipt of a letter from the Secretary of the Interior, dated March 4, 1907, granting the application for the enrollment of Henry Rider, et al., as Cherokee freedmen.

For your information, there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

SIGNED *Tams B. B. B.*
Commissioner.

Encl. H-50
JMH

Cherokee Ross

COPY

Muskegee, Indian Territory, March 22, 1907.

Hugh B. Henry,

Guntersville, Alabama.

Dear Sir:

You are hereby advised that the application for the enrollment of your two children, Hubert and Robert Henry, as citizens by blood of the Cherokee Nation, was granted by the Secretary of the Interior, February 28, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams B. B. B.*
Commissioner.

No I-637

RPI

Cherokee R998

COPY

Muskogee, Indian Territory, March 22, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the application for the enrollment of Hubert and Robert Henry as citizens by blood of the Cherokee Nation, was granted by the Secretary of the Interior, February 28, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Toms Kirby*.

Commissioner.

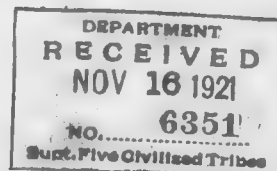
Enc I-638

RPI

Land-V.T.
87681-21
C G F

NOV 7 1921

Error on citizenship roll



The Honorable

The Secretary of the Interior,

Sir:

I have the honor to transmit herewith a report of October 27, 1921, from the Superintendent for the Five Civilized Tribes, and other papers, relative to an error appearing on the final approved roll of Cherokee freedmen in reference to the designation of the sex of Leullen Rider, whose name appears opposite No. 4238 on said roll. It appears that Leullen Rider was designated on said roll as a female and should have been designated as a male.

The Office therefore recommends that the letter "p" appearing in the sex column opposite the name of Leullen Rider, at No. 4238 on the final approved roll of Cherokee freedmen, be cancelled and that the letter "m" be substituted therefor, and that this Office and the Superintendent for the Five Civilized Tribes be authorized to make a similar correction upon the copies of the rolls in their possession.

11-3-CMS

Approved: NOV 7 - 1921

(Signed) F. M. Goodwin.

Assistant Secretary.

Respectfully,

E. B. Meritt
Assistant Commissioner.

Cher Fr 1566

Trans. from Cher M.M. 24

Cher Fr 1566

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., SEPTEMBER 28, 1905.

In the matter of the alleged application for the enrollment of Ada Kilpatrick and Mariah Freeman as Cherokee freedmen.

APPEARANCES:

For Applicants, Neal & London, by Mr. Neal.

For Cherokee Nation, W. W. Hastings and J. S. Davenport.

ADA KILPATRICK, being first duly sworn, testified as follows:

ON BEHALF OF THE COMMISSIONER:

- Q What is your name? A Ada Kilpatrick.
Q How old are you? A 26.
Q What is your post office? A Sallisaw.
Q Have you some children? A Yes sir.
Q Give their names? A Ivy Kilpatrick.
Q The next one? A Warren Kilpatrick.
Q The next one? A Easter Kilpatrick.
Q How old is Ivy? A She is going on 10.
Q How old is Warren? A 5.
Q And how old is the next one? A 3 years old.
Q Have you ever, prior to this time, made application to the Five Civilized Tribes for enrollment as a Cherokee freedman? A I thought papa had made it for me.
Q Did you ever apply? A Yes sir, I tried once when they was at Sallisaw and they said I was already on it.
Q Who said that? A The man that was clerk of the court.
Q They were not receiving applications for enrollment of freedmen at Sallisaw, you knew that didn't you? A No sir.
Q No freedman applications for enrollment were received there, did you know that? A No sir, I don't know what they were doing.
Q What was your maiden name? A Ada West.
Q You never, at any time, appeared before the Commission for the purpose of making application for enrollment, did you? A No sir.
Q Did any one appear for you? A If papa didn't nobody never, because I never had nobody else to appear but him.

BY MR. NEAL:

- Q Has it been your understanding all the time that your father had applied for you and your sister Mariah? A Yes sir.
Q What is your sister Mariah's name now? A Mariah Freeman.

BY MR. HASTINGS:

- Q How long have you been married? A 10 years.
Q How long has your sister been married? A I don't know sir how long this last time.
Q Well the first time? A About five years I guess.

BY MR. NEAL:

- Q Has she any children? A No sir, nobody but her.

BY MR. HASTINGS:

- Q You have been living with your husband for the past 10 years?
A Yes sir, since we married.

ON BEHALF OF THE COMMISSIONER:

Q How old is your sister Mariah? A About 23.

The records of this office have been examined and it does not appear from a careful examination thereof that any application was ever made for the enrollment of the applicant, or her children, or her sister, Mariah Freeman.

WITNESS EXCUSED.

Mr. Hastings: Comes now the representatives of the Cherokee Nation and respectfully protests against the taking of any testimony whatever in the matter of this investigation for the reason that the records of the Commission show that no application was made for these applicants prior to October 31, 1902, and the testimony further shows that they were adults, married, and one of them, Ada Kilpatrick, was the mother of some three children and was living with her husband at the time.

Mr. Neal: The applicants offers to show that they are the children of Callis West a regularly enrolled freedman, and that their father, Callis West, informed them that he had applied for their enrollment.

-----000-----

George H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 29th day of September, 1905.

Myron White.
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, IND. TER., SEPTEMBER 28, 1906.

In the matter of the applications for the enrollment
as Cherokee Freedmen of ADA KILPATRICK ET AL. and MARIAH FREEMAN.

This case having been set for hearing on this
September 28, 1906, and Neal & London, of Fort Smith,
Arkansas, attorneys for applicants, and W. W. Hastings,
attorney for Cherokee Nation, being notified thereof,
the case coming on to be heard on this date, the following
proceedings were had:

For Applicants, R. R. Cravens on behalf of
Neal & London, Attorneys of Record:

APPEARANCES:---

For Cherokee Nation: W. W. Hastings,

ADA KILPATRICK being first duly sworn, testified as follows:

EXAMINATION BY R. R. CRAVENS:

- Q. What is your name? A. Ada Kilpatrick.
Q. How old are you? A. Twenty-six years.
Q. Where do you live? A. Sallisaw.
Q. Are you a citizen of the Cherokee Nation? A. They always
told me I was.
Q. What is the name of your father? A. Callis West.
Q. Is he living? A. Yes sir.
Q. Is he a citizen of the Cherokee Nation? A. Yes sir, they
always told me he was.
Q. What was the name of your mother? A. Emma

Q. Is she living? A. No sir.
Q. To whom did your father belong? A. Mayfield.
Q. For whom are you making application, or for whom have you
made application? A. For myself and three children.
Q. Are they all living? A. Yes sir.
Q. What are their names? A. Ivy Kilpatrick, Warren Kilpatrick
and Easter Kilpatrick.
Q. How old is Ivy? A. Eleven years old.
Q. Warren? A. Nine.
Q. And Easter? A. Six years old.
Q. They are all living? A. Yes sir, they are all living.
Q. Have you ever drawn any money from the Cherokee Nation?
A. My father drew it for me.
Q. Where have you lived all your life? A. Down between here and
Fort Smith, down by Sallisaw and Cottonwood and Redland.
Q. Have you ever lived outside the Cherokee Nation? A. No sir.
Q. You aren't married are you? A. Yes sir.

Cherokee N. Y. 24-72

Q. Your husband a citizen? A. No sir.

ON BEHALF OF COMMISSIONER:

Q. Was your mother a Cherokee Freedman? A. No sir.

Q. She was a State woman? A. Yes sir.

CALLIS WEST being first duly sworn by Walter Chappel, a Notary Public, testified as follows:

- Q. What is your name? A. Callis West
- Q. How old are you? A. I am going on fifty-seven.
- Q. Where do you live? A. Down in Sequoyah District, Cherokee Nation, close to Fort Smith.
- Q. Are you a citizen of the Cherokee Nation? A. Yes sir.
- Q. What was the name of your owner? A. Walker Mayfield.
- Q. Are you the father of Ada Kilpatrick? A. Yes sir.
- Q. Are you enrolled now as a citizen of the Cherokee Nation? A. Yes sir.
- Q. Have you filed for yourself and family, the ones that are on with you? A. For part of them; I aint filed for all of them.
- Q. Have you lived in the Cherokee nation all your life? A. All except time of the war.
- Q. Where did you go then? A. Down south to Texas; didn't go, my master carried me down there.
- Q. When did you return? A. In '66.
- Q. What time in '66? A. Right after Christmas; it was Christmas eve the day that we come to Fort Smith.
- Q. You came back with your master? A. Yes sir.
- Q. And have lived in the Cherokee nation continuously ever since? A. Yes sir.
- Q. Does your name appear upon any of the rolls of the Cherokee Nation? A. It is on the Wallace and Kern-Clifton rolls.
- Q. Is your wife the mother of Ada living? A. No sir, she died when Ada was about three years old.
- Q. How many children have you? A. I have got thirteen
- Q. Living? A. Yes sir.
- Q. What are their names?--three or four of the oldest? A. She is the oldest one I have got.
- Q. What is the next one? A. Mariah.
- Q. Is she living? A. Yes sir.
- Q. About how old is she? A. This here one was born in 1878, in February, and the other one was born two years after, there is just two years difference in their ages.
- Q. What is the name of the next child? A. Henry.
- Q. He is about twenty? A. Going on twenty-three now, I guess.
- Q. Next? A. Callis.
- Q. Next? A. Neal, Cornelius.
- Q. Are Henry, Callis and Cornelius full brothers of Ada and Mariah? A. No sir, just them two children by my first wife, Mariah and Ada.
- Q. Was your first wife a citizen? A. No sir, she just claimed a Chectaw right.

Cherokee M M 24-43

- Q. Have Ada and Mariah lived in the Cherokee Nation all their lives. A. Yes sir.
- Q. Have you ever drawn money for them? A. Yes sir.
- Q. When? A. I drew in the Wallace payment and the Kern-Clifton payment.
- Q. They have never been out of the Cherokee Nation?
- A. No sir, never have been out of the Cherokee Nation at all.

CROSS-EXAMINATION BY W. W. HASTINGS:

- Q. How old are you? A. Going on fifty-seven years old.
- Q. You came back to the Cherokee Nation after the war with your owner, Walker Mayfield? A. Yes sir.
- Q. To what point in the Cherokee Nation did you come?
- A. To the old Walker Mayfield place in Sequoyah.
- Q. How far from Muldrow? A. Three or four miles.
- Q. What direction? A. East.
- Q. Came there in covered wagons? A. Yes sir.
- Q. Who came back with Walker Mayfield- what Cherokees, what members of his family? A. Walk Mayfield never had any members of his family but his wife. His wife come back with him.
- Q. What was her name? A. Jane.
- Q. Did any one else come back with him? A. Yes sir, a Cherokee by the name of Reddy Taylor.
- Q. Anybody else? A. Wills Mayfield.
- Q. Who was Wills Mayfield? A. A brother of walker.
- Q. Did he have a family? A. No sir--Yes sir, Wills had a family
- Q. Are any of them living? A. His wife went back to Texas; they never had any children.
- Q. Is she living? A. I don't know sir.
- Q. Did anyone else come along with walker at that time?
- Q. Yes sir, another fellow, a white man that drove Wills Mayfield's team, I don't remember his name.
- Q. Were there any other people along? A. --I just can't think of any of them now-- you know its been a long time.
- Q. Do you know a man named Dave Faulkner? A. Yes sir, I never knew him till since the war.
- Q. Did you know his wife? A. Yes sir.
- Q. Was she a niece of Walk Mayfield? A. Yes sir.
- Q. Do you remember her coming down there to visit them?
- A. No sir, she didn't come there, down there.
- Q. How do you know? A. Because I was living with Walk Mayfield.
- Q. You knew everyone that came there? A. I knew his relations.
- Q. You know where Judge Adair was living? A. Yes sir.
- Q. You know where Oscar Adair was living? A. Yes sir.
- Q. You don't recollect anybody else that came with you?
- A. I don't remember anyone now.
- Q. When you first came back you came to Walker's old home place three miles from Muldrow? A. No sir, when we first come back we stayed at the farm, the farm is six miles from where his house was where he lived at.
- Q. Where was that? A. That was down in the bottom.
- Q. That was his farm was? A. Yes sir.
- Q. Did your father come back with Walk Mayfield? A. Yes sir.
- Q. How about your brothers?

- A. I had one brother come back with him. Dave and Houston
Q. Houston came back at that time? A. Yes sir, and Dave,
He didn't belong to that family though.
Q. How about George? A. He came, he was a baby then.
Q. Were Ada and Mariah born while you and their mother were
living together? A. Yes sir.
Q. Were you married to her? A. Yes sir.
Q. Did you have any other children by her? A. No sir, just them too.
Q. Did these two girls live in your family? A. No sir, they
stayed with their grandmother; they just stayed with me once
in a while.
Q. What was her name? A. Harriett Murr.
Q. Was that their mother or their mother's mother?
A. That was their mother's mother.
Q. Was any application made for either one of these children
in the Choctaw Nation? A. No sir.
Q. Do you know that to be a fact? A. Yes sir, because their
mother died right down here at Walk Mayfield's place. She
did not die right on his place but close to his place.

By agreement between the attorneys for Applicants and
the Cherokee Nation, this case will be continued until
October 18, 1906.

Lucy M. Bowman being first duly sworn states that as stenogra-
pher to the Commissioner to the Five Civilized Tribes she cor-
rectly recorded the proceedings had in the above entitled cause,
and that the above and foregoing is a full, true and correct
transcript of her stenographic notes thereof.

Lucy M. Bowman

Subscribed and sworn to before me this 19th day of October, 1906

B. P. Raemus
Notary Public.

Cherokee NM 24

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, IND. TER., OCTOBER 18, 1906.

In the matter of the application for the enrollment
as Cherokee Freedmen of ADA KILPATRICK ET AL., AND MARIAH FREEMAN.

At the hearing had in this case on September 28, 1906,
by agreement between attorneys for the applicants and the
Cherokee Nation this case was continued until October 18,
1906. This case coming on to be heard on this day, October
18, 1906, pursuant to said continuance, the applicant
being represented by Attorneys R. R. Cravens and W. S. Wolfen-
berger, on behalf of Neal & London, Fort Smith, Arkansas,
Attorneys of record, and the Cherokee Nation represented
by Attorney, W. W. Hastings, the following proceedings were
had,

R. R. CRAVENS, of counsel for applicants, announces that
he has no direct testimony to offer at this time.

W. W. Hastings:

On behalf of Cherokee Nation I desire to offer first the
record in the Henry West case, of the Supreme Court of the
Cherokee Nation on June 15, 1871 .

R. R. Cravens:

We would like to see that before it is offered in evidence
Mr. Hastings.

Mr. Hastings:

This is a part of the Dawes Commission records now, I got
it from their files for the purpose of offering it.

Mr. Cravens:

We object to the introduction of this for the reason that it
is not shown by whom this decision was entered, and for the
further reason that it does not appear what this record is.

On Behalf of Commissioner:

The Docket "Docket of Doubtful Cases for Cherokee Citizenship
tried in 1871," the same being the Docket of the Daniels

Court on Cherokee Citizenship, in the possession of this office, shows the following entry on Page 49:

"R. R. 143 Henry West
Decided against Claimant June 15 1871."

Mr. Hastings:

I now desire to offer, on behalf of the Cherokee Nation, the data found on Page One of minutes of Commission on citizenship in a book in the possession of the Commissioner entitled "Docket of Chambers Com'n on Citizenship" being an entry showing the docket of the case of Henry West, colored, versus the Cherokee Nation.

Mr. Cravens:

We object to the introduction of this on the ground that it tends to show nothing as to the application for citizenship of Callis West et al., and for the reason that it is irrelevant and immaterial.

On Behalf of Commissioner:

The Docket of the Chambers Court, or Commission on Cherokee Citizenship in the possession of this office, shows the following entry on Page One:

"Attys. No. 1 Appearance on 18th
Feby 1878.

W.P. Boudinet Henry West Col'd
vs.
Cherokee nation. Instrument filed 18th Feby
1878, & written evidence
Decree Adverse. Continued till 7th May 22nd Apr. by consent
(9 o'clock) 4th May set, at Tahlequah
Con't till 7th June 1878. "

Mr. Cravens:

We would like to object to the introduction of that for the further reason that it has no bearing on the application of Ada Kilpatrick et al., and Mariah Freeman, the records of the Commission showing that their father, Callis West, is enrolled as a Cherokee Freedman, and approved by the Secretary of the Interior.

Mr. Hastings:

The Cherokee Nation now desires to offer in evidence the decision of the Chambers Court made in the case in which the record last hereinabove introduced was the Docket

Entry, said decision being found on Page 9 of the Citizenship record in possession of the Commissioner to the Five Civilized Tribes, entitled "Docket Chambers Court 1878."

Mr. Cravens:

Attorneys for applicants object to the introduction of this record for the reason that it tends to prove nothing as to their application for citizenship and is immaterial and irrelevant.

On Behalf of Commissioner:

The decision referred to in the Docket of the Chambers Court for the year 1878 is found on Page 9, of said Docket which is in the possession of this office, and is as follows:

No.1.	"Henry West vs. Cherokee Nation) Claim of Citizenship Before the Commission on Citizenship Sitting at Tahlequah C. W. June 12th 18
-------	---------------------------------------	---

" This case comes under that class of cases of which the Commission have jurisdiction under Act of Dec 1877, claiming citizenship under the 9th Article of the Treaty of 1866, in regard to persons of African descent. His statement alleges that he was a slave and owned by a citizen of the Nation; and both resident here at the commencement of the Rebellion. Claimant was afterwards sent to Texas by his owner, but returned in time, that is, within six months from the ratification of the Treaty of 1866.

The facts above are proven satisfactorily, except as to the time of the return to the Nation. This is the turning point in Henry West's case. The Com'n find that the only testimony on that point, is the statement of Walter Mayfield, who says that he and claimant returned to the Nation on the 4th day of April 1867. This is decisive of the case. Claimant came too late. The Commission are confined by the Act establishing the Com'n. to the time mentioned in the Amendments to the Cherokee Constitution, so far as to the exact time of the ratification of said Treaty is concerned, which places it, on the 19th day of July 1866; and hence claimant's return in April 1867, is more than six months after the time specified in the said 9th Article of said Treaty.

Claimant, therefore, under the most favorable view we can take of his claim, does not derive or acquire any rights in the Cherokee Nation under said Treaty in the opinion

of the Commission, and consequently they decree that
s'd claimant is an Intruder, on the Public Domain
of the Cherokee Nation.

Attest:
D. L. Nicholson
Clerk Com'n.

John Chambers
President Commission.
O. P. Brewer)
George Downing) Com'rs."

D. M. PAULKNER, being first duly sworn by Chas. E. Webster,
a Notary Public, testified as follows:

EXAMINATION BY W. W. HASTINGS:

- Q. What is your name, please? A. My name is D. M. Paulkner
Q. What is your postoffice? A. Hanson, Indian Territory.
Q. Your age? A. About sixty-four.
Q. Where did you reside immediately after the Civil War?
A. I resided near Fort Smith.
Q. In what district? A. In Sequoyah District.
Q. About how far from Fort Smith, Arkansas? A. About twelve miles.
Q. In the Cherokee Nation? A. Yes sir, in the Cherokee Nation.
Q. Was Fort Smith then your trading point? A. Yes sir.
Q. That was across the line, in the state of Arkansas?
A. Yes sir.
Q. When did you marry? A. I married in April 1867.
Q. Do you remember the exact day? A. It was the 22nd.

Mr. Cravens: I object to that for the reason that the record
is the best evidence.

Objection will be noted.

- A. The twenty-second day of April.
Q. What was your wife's maiden name, whom you married in April,
1867? A. Her name was Rachel L. Adair.
Q. Did you know Walker Mayfield? A. Yes sir.
Q. Was he related to your wife whom you married in April, 1867?
A. Yes sir.
Q. What relation was he? A. She was Walker Mayfield's niece.
Q. Your wife was Walker Mayfield's niece? A. Yes sir.
Q. Was Walker Mayfield married? A. Yes sir.
Q. Did you know his wife? A. Yes sir.
Q. What was her name? A. Her name was Jane Blackburn, her maiden
name.
Q. Did you know Walker Mayfield before the war? A. Yes sir.
Q. Do you know whether or not he went out of the Cherokee Nation
during the war?
A. Yes sir, he went to Texas.
Q. State, if you know, when he returned after the Civil War?

- A. Well, he returned in April, about the first of April, 1867.
- Q. How do you know that? A. Well, this notice that I married got notice that her uncle had come home, that is, come back in the Cherokee Nation, and I went with her over there to see them when they returned.
- Q. About how far from where you were living did he return?
- A. From where he lived when he went to Texas?
- Q. No, from where you lived? How far did you live from where he returned to? A. About six miles.
- Q. What was Rachel E. Adair, whom you afterwards married, doing at that time? A. She was boarding with my sister, teaching school there, and I lived there too with my sister.
- Q. And you went with her to see her uncle upon hearing that he had come back? A. Yes sir.
- Q. Had he just returned? A. Yes sir, that was the notice that we received, that he had just returned, and we went over there, and he was there.
- Q. Do you know whether they had unloaded their things or not?
- A. No, sir, I only seen the covered wagons standing there in front of the house.
- Q. Did you know his older slaves, Henry West, Callis? A. No, I only knew Henry West.
- Q. Do you know whether or not he brought them back with him?
- A. Well, there was one, I seen one.

Attorneys for Applicants: Objected to; Make him say yes or no.

Mr. Hastings: Go on; Answer the way you want to.

- A. I seen Henry there. There were other colored persons, I did not make any inquiry about who they were.
- Q. You don't think you can testify whether they were there or not?
- A. No sir, only Henry, he lived by me afterwards. Houston West--
- Q. Did you ever afterwards learn that Callis West, the father of Ada Kilpatrick, was a son of Henry West? A. Yes sir, I got acquainted with them afterwards.
- Q. Mr. Faulkner, you testified in the case of Houston West, et al., before this have you not? A. Houston West?
- Q. In reference to the return of Walker Mayfield in the West case?
- A. Yes, I did.
- Q. You testified to this Commission about the return of Walker Mayfield before? A. Houston came in later.
- Q. That is in reference to Houston and another son of West's you have testified as to the return of Walker Mayfield before?
- A. Yes sir, I have.
- Q. That was at Fort Gibson, in 1901? A. Yes sir.
- Q. At that time had you heard read this judgment of the Chambers Court? A. No sir.
- Q. You did not then know its findings? A. No sir, I did not know its contents.
- Q. Your memory then was not refreshed by anything that was contained in the judgment of the Chambers Court? A. No sir.
- Q. You are at present Assistant Chief of the Cherokee Nation, are you not?

- A. Yes sir.
- Q. You have been senator from your District in the Cherokee Senate? A. Yes sir.
- Q. How far do you now live from where you were living in 1867?
- A. It is about twelve miles, near that.
- Q. Have you always lived in that same district? A. Yes sir. Well, no, not always, when I was a boy--
- Q. I meant since the war, since 1867? A. Oh, yes, certainly.
- R. R. CRAVENS:
- Q. How old did you say you were, H. R. Faulkner? A. About sixty-four or sixty-five.
- Q. How do you fix the time in your mind as to the return of Walker Mayfi old?
- A. Well, when they got the notice--
- Q. Who got notice? A. His niece-- I went with her over there to see her uncle and then in a week or so after that me and her was married, and I have got that on record in my Bible.
- Q. You do not know do you, whether he stopped anywhere else in the Cherokee Nation after his return? A. No sir, I do not.
- Q. How long after he got there did you go to his place where he was? A. Well, I could not say what day he got there, but it was along in April, '67, when we went over, and he had just returned.
- Q. How long after you heard that he had returned when you went there? A. The next day.
- Q. You were not married then? A. No sir.
- Q. His niece did not go with him to Texas? A. No, she was with her parents.
- Q. When did she return? A. I don't know the year. She said---
- Q. No, I want to know if you know yourself. Did you leave the Cherokee Nation yourself during the war at any time?
- A. Part of the time.
- Q. Where did you go? A. I was in the army.
- Q. When did you return to the Cherokee Nation? A. I returned in the fall of '66.
- Q. In what month? A. It was in November.
- Q. What day? A. I don't remember the day, but it was in November.
- Q. When did the war close? A. Why, it closed in '65.
- Q. When? A. It closed in '65.
- Q. Do you know what month and year the war began in? A. Well, I don't know-- about the very first, that was, I believe in March, '61, was the first we had here; I don't know when it commenced in the east.
- Q. You say you have a record at home of the day of your marriage?
- A. Yes sir.
- Q. You haven't it with you? A. No sir.
- Q. When did you last see it? A. Why, I see it very often; I seen it about a week ago.
- Q. For what purpose did you examine it? A. I was reading the Bible and saw it.
- Q. Well, for what purpose did you examine it? A. Why, I was just looking over the Bible.

- Q. You mean that you were just reading the Bible? You did not look at that record in order to refresh your memory in order that you might testify here? A. No sir, I did not.
- Q. When were you notified that you would be required to testify in this case? A. Here about- I expect it has been about a month ago.
- Q. And since that time you have looked at the Bible to refresh your memory? A. I don't know about refreshing my memory, because it is there.
- Q. Why did not you bring that with you?
- A. Why I did not know that it would be necessary.
- Q. Did you ever bring that in evidence when you have testified before the Commission before? A. Yes, I think I did. I am pretty certain I did.
- Q. Have you been married more than once? A. Yes sir.
- Q. When were you married the second time? A. I was married about-Let's see--I married about five, about four years ago.
- Q. What month? A. In May.
- Q. What day? A. The ninth day of May.
- Q. Is that down in your Bible too? A. It is on my License, it is not in my Bible.
- Q. Why did you not enter that in your Bible? A. Well, if I had had another Bible, I expect I would.
- Q. Is the record full in that Bible? A. Yes sir; I have the ages of all my children in that Bible.
- Q. How many children have you? A. I will have to count awhile; I have got twelve living.
- Q. What is the age of the oldest? A. He is about- he was born in eighteen seven-- well he is about--
- Q. When was he born? A. He was born the fourth day of September, eighteen hundred and,--well-- I can't say when. It was the fourth day of September, 1869, I think.
- Q. Are you sure about that as you are about the date of your marriage to your first wife? A. No sir, I won't be, but I know the very month and day.
- Q. How old is your son now, your oldest son? A. He is thirty-six or thirty-seven years old.
- Q. When was your next child born? A. He was born about sixty-about seventy-one, I think.
- Q. What month and day? A. It was born in September, too.
- Q. What day? A. I don't know, I know it just lived fourteen days.
- Q. You don't know what day of the month? A. No sir, I do not.
- Q. The next? When was your next child born? A. Well, I can not give it; just about two years difference between.
- Q. I want to know the date, the exact date; please? A. About 1873.
- Q. What month and day? If you don't know just say so. A. Give me time, this is new matter you have sprung up on me; I don't read them over every day; just give me a little time.
- Q. I will waive the question. When was your last child born, your youngest child?
- A. My youngest child--was born in-- I have got two sets of children, which one do you mean?
- Q. Your youngest child? A. It was born on the 25th day of June, in 1904.
- Q. How old is that child now? A. He is a little over- Let's see- 1904-- No it was in 1905. He was just a year old last June.
- Q. How old were you when the war begun? A. Well, I was about eighteen or nineteen, I guess; of course I don't know only just what my father said.
- Q. When were you born? A. I was born in 1841 or 2, he always told me.
- Q. In what month? A. The twelfth day of May.--I remember that well.

- Q. Have you the dates of the birth of your children in the same Bible in which you have the record of your marriage to your first wife? A. Yes sir.
- Q. On the same page? A. I don't know; I think not.
- Q. You don't know about that? A. No sir, I don't know about that. In the same opening of the book, though.
- Q. Then on this page or on that page? (Indicates opposite pages of open book) A. Yes sir.
- Q. How did it happen that you noticed, about a week ago, I believe you stated, the date of your marriage, and not the dates of the birth of your children, if you did not expect to be called upon to testify on that; about that date?
- A. Why, I just neglected it, I reckon.
- Q. Did you have any special reason for examining the date of your marriage? A. No sir. But I know that I testified once before about the same thing.
- Q. Then after you were subpoenaed to testify this time you looked at the Bible to refresh your memory?
- A. Not in particular.
- Q. What other entries are in that Bible? A. No others, nothing else only the day of our marriage, and the birth of our children, and our ages, mine and hers.
- Q. Have you a marriage certificate? A. No.
- Q. Of your first marriage? A. No sir, I never received any.
- Q. They did not have license and certificate at that time?
- A. No sir.
- Q. Who entered that in the bible as to the date of your marriage?
- A. My wife.
- Q. Whose Bible was it? A. It belonged to the family.
- Q. A new Bible? A. It is old now; it was new then.
- Q. I mean then? A. Yes sir, we bought it for that purpose.
- Q. Did you see your wife make that entry? A. Yes sir.
- Q. I believe you stated, did you not, that you did not know whether Walker Mayfield had stopped in any other part of the Cherokee Nation prior to the time you saw him there near your place? A. No sir, I don't know, only that they said he had come home.
- Q. And that was what day, you say? A. A. Well, that was in April, 1867, is when I and this young lady went there.
- Q. Is there anything else that fixes that date in your mind besides the fact of your marriage shortly after?
- A. Well, only this; Me and my sister moved there, went back home, that was in the fall of '66, I went first over there to build a house.
- Q. Over where? A. Over near where this man Mayfield lived before the war. He had lived there and visited us often, before the war, and when we went over there in the fall Mayfield wasn't there, and wasn't there until the next spring, and that was in the month of April. And this young lady came down there from Flint, where she lived with her parents, to teach school, and boarded there with my sister, where I lived, and she wanted to go over there to see her uncle and I went with her; Of course I didn't pay particular attention to his Freedmen; only this old man Henry-Henry West- and I seen the covered wagons there.
- Q. You don't know how long he had been there?
- A. Only from just what we heard.

By Mr. Hastings:

- Q. When you were examined before, you mean that the date of the marriage of yourself and wife was inquired about; You did not bring the Bible with you at that time?
- A. Oh no, sir, never thought of such a thing, but I knew of it, what was in it.
- Q. How far is the point to which Walker Mayfield came to the southern boundary of the Cherokee Nation? A. Well, sir-
- Q. How far north of the Arkansas River?
- A. Well, it is only hearsay, the nearest is Fort Smith. That is about four miles; that's where he should have entered the Territory.
- Q. You mean he was about four miles north of the line? A. Yes sir

On Behalf of Commissioner:

- Q. How far west of the line? A. West of the line? Why, he lived four miles west of the line.
- Q. West of what line? A. The Arkansas line. He crossed there at Fort Smith, I understood.
- Q. Four miles from the Choctaw line? A. No from the Arkansas line.
- Q. How far is this point from the Choctaw line? from the Arkansas River? A. It is about seven or eight miles; I lived near the River.
- Q. How long after you said the young lady went over to Walker Mayfield's before you were married? A. Well, I think it was somewhere about a week after that.

The applicant moves that the testimony of this witness as regards the date of his marriage be stricken from the record for the reason that the entry in the Bible is the best evidence.

The motion will be noted.

By Mr. W. S. Wolfenberger:

- Q. Now do you know of your own knowledge when Mr. Mayfield did come back? A. Yes sir, I seen him and talked with him.
- Q. The day he got back? A. No sir, but he was there in April. I knew he had just come back.

On Behalf of Commissioner:

- Q. At the time you went over to where he was in '67 was he at the place where he lived before the war? A. Yes sir.
- Q. Had he become located there again? A. Yes sir.
- Q. Had he become settled in his home again? A. You mean where he left to go to Texas?
- Q. Yes sir? A. Yes sir, he left that very same place when he went to Texas.

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- Q. But what I meant was, Did his place have the appearance that he had been back quite a while, or just a day or two? A.
- A. The way the place looked, everything was in a wreck there, and his covered wagon stood right in front of one of the houses, and this old man Henry West was walking around there.
- Q. Did you know what was in the wagons? A. No sir.

I object to that question and answer as calling for an opinion of the witness.

- Q. The young lady whom you afterwards married was living at the same house you were? A. Yes sir, she boarded with my sister, and I lived there.
- Q. I believe you said that your sister lived about six miles from the place where you saw Walker Mayfield? A. Yes sir.
- Q. Was that a thickly settled country? A. No sir, hardly anyone in the country.
- Q. Do you know how she got the notice that Walker Mayfield had returned? No sir, I do not; I only know that she told me she had received the notice.
- Q. Do you know how long after she got the information you went over to see him? A. We went the next day.

Mr. Wolfenberger:

- Q. You said that you went and found Mr. Mayfield on the place, and it looked like everything was torn up; Now, don't you remember that a man had been living there all the time in the absence of Mr. Mayfield; had been living there all the time?
- A. You say do I know it?
- Q. Yes sir? A. No sir, I never went about the place until he came home.
- Q. You did not know he lived there? A. No sir.
- Q. Do you know a Mr. Hughes who lived down in the Cherokee Nation about that time? A. No sir, I don't think I do--What Hughes? old George Hughes?
- Q. George Hughes? A. If he lived there I do not know it.

WITNESS EXCUSED.

T. H. STILL, being first duly sworn by B.P. Rasmus, a Notary Public, testified as follows:

EXAMINATION BY MR. HASTINGS:

- Q. What is your name? A. T. H. Still.
- Q. What is your postoffice? A. Overton, Rusk County, Texas.
- Q. Your age? A. Sixty-nine.
- Q. Are you a citizen of the United States? A. I am.
- Q. When were you first married, before the war or after?
- A. I married in September, '87.
- Q. Who was your wife?

- A. She was a Mayfield.
- Q. Was she related to Walker Mayfield? A. She was a sister of Walker.
- Q. Where did you live before the war? A. In Rusk County, Texas.
- Q. And were you there after the war? A. Yes sir, I was there until the spring of '67.
- Q. Did you know Walker Mayfield during and after the war?
- A. I did.
- Q. He was your brother-in-law? A. Yes sir.
- Q. How far apart did you live after the Civil War? A. About four miles.
- Q. Did Walker Mayfield reside in Texas, within four miles of you, after the war? A. For a short time, a year or two.
- Q. What was his wife's name? A. Jane. I think her name was Jane Blackburn before she married.
- Q. Did you remain in Texas after the war? A. I remained there until about the first of March, '67.
- Q. Where did you come to then? A. I came to the Cherokee Nation, Indian Territory.
- Q. Who came with you? A. Mrs. Mayfield, the mother of Walker Mayfield, and my own family.
- Q. Do you know where Walker Mayfield was when you left Texas?
- A. I left him in Rusk County, Texas.
- Q. He had not then left Texas for the Cherokee Nation when you left there about the first of March, 1867?
- A. I left there first.
- Q. Where did you move to? A. I came to Fort Smith; crossed the River at Fort Smith.
- Q. You mean Fort Smith, Arkansas? A. Arkansas.
- Q. Where did you come then? A. I stopped about three miles this side of the River, with Martin Bell.
- Q. Did you meet Little Zeke Harnage there? A. Yes sir, he was stopping there.
- Q. That is the same Zeke Harnage whom you met here to-day?
- A. Yes sir; Bell's wife was his sister.
- Q. How long did you stop there? A. I am not certain; I left my family and Mrs. Mayfield there and went up in Flint-District?
- A. Yes sir, and I arranged for a farm up there and went back there. My family remained there three or four days.
- Q. And then you removed up to Flint? A. Yes sir.
- Q. Now after going from Sequoyah District up to Flint, had Walker Mayfield arrived? A. He had not then arrived.
- Q. Afterwards did he come to that neighborhood?
- A. Well, I can only say that from hearsay.
- Q. Did you afterwards see him there?
- A. Well, three or four months after that I was going down to Fort Smith and I stopped there to see him there on his place. I had not had any occasion to go down there before that and only knew he was there from hearsay.
- Q. Your wife was a full sister of Walker Mayfield? A. Yes sir, a younger sister.
- Q. You are satisfied that you did not leave Texas until about the first of March '67? A. Yes sir, it was shortly after the first of March.
- Q. And Walker Mayfield had not moved up to this country prior to that time? A. No sir.
- Q. Did you know any of his elder slaves?

- A. I knew them at the time, but it has been so long, and there were so many of them belonging to the family, that I have forgotten them.
- Q. Do you know he had one called Henry? A. Yes sir, and Callis and Houston.
- Q. When you first came across from Fort Smith, Arkansas into Sequoyah District, Cherokee Nation, did you come into the same neighborhood into which Walker Mayfield afterwards moved?
- A. Yes sir, his farm was about four miles from where I stopped. He had a farm in the bottom nearer than that, within two miles of that, but his residence was up in the hills, four or five miles.
- Q. You lived here a short time and then went back to Texas?
- A. Yes sir; I left here in '71, I believe.
- Q. You have lived in Texas ever since? A. Ever since, yes sir.
- Q. You have no interest in the results of this controversy?
- A. None in the world, sir.

On Behalf of Commissioner:

- Q. Do you know when Walker Mayfield left Texas? A. No sir, because I left there the first of March and he left there after I did, so I could not tell the date.
- Q. When you left Texas and came to the Cherokee Nation, as you testified, how long after that was it that you went back to Texas, if you did go back? A. I went back to Texas in June.
- Q. Of what year? A. Of that same year, and I went back to live in '71.
- Q. And after you came to the Cherokee Nation in March, '67, your first trip back there was in June, 1867?
- A. Yes sir, we had not really moved everything, I had a lot of cattle down there and I went back there in June, and drove them up about August.
- Q. Had he left Texas at that time? A. When I went back there?
- Q. When you went back in '67? A. Yes sir.
- Q. When was the first time you saw Walker Mayfield in the Cherokee Nation after the war? A. It must have been in August; I went to Texas for my cattle, and we were two or three months getting them up here, and I had to have some money to pay off the men, and I had some money in the bank at New Orleans, and I went down to Fort Smith to draw it, and I stopped to see him.
- Q. Do you know where he settled in the Cherokee Nation?
- A. Yes sir, on the old Blackburn farm.
- Q. How far was that from where you lived?
- A. About thirty miles.
- Q. You know that you left him in Texas, and you don't know exactly when he came here? A. No sir, not of my own knowledge. I know I left them there, and I saw him here in about August..
- Q. Have you any record by which you can fix the date as to when you came to the Cherokee Nation?

- A. No, no record; I can fix the date this way; -In the year of '65 we made no crop, or no crop to amount to anything, because we did not get home until June, and in '66 I made a good cotton crop, and sold my place, and moved up here; I only made one crop in Texas after the war.
- Q. And that was in what year? A. That was in '66.
- Q. Have you seen any of these colored persons here to-day?
- A. No sir, none of them made themselves known to me, and I did not know any of them.
- Q. You live in Texas now do you? A. Yes sir.
- Q. How long have you lived there this time? A. Ever since I went back there in '71.
- Q. You say you knew a slave named Henry, owned by Walker Mayfield?
- A. I remember that they had a man named Henry.
- Q. Do you know whether he had any children? A. No sir, I did not know the family.
- Q. Where was Henry, this slave, when you left Texas? A. I can not say, at all, from my personal knowledge.
- Q. You do not know whether he was in Texas or had returned to the Nation? A. No sir, I do not.
- Q. When you left Texas in '67 were any of Walker Mayfield's slaves with him there in Texas? A. A I only know in a general way, sir, there were quite a number of slaves belonged to the family, but I could not answer that, personally.
- Q. Do you know whether any of his young slaves were there with him when you left there in '67? A. No sir, I do not know, I could not say.
- Q. How far did you live from Walker Mayfield in Texas? A. About four miles.
- Q. How old were you then? A. Let's see-- I am sixty-nine now, and that was, say, forty years ago, would make me twenty-nine, wouldn't it, about.
- Q. Before you left there how long had you known Walker Mayfield in Texas.
- A. I knew him from '57 up to well, I don't know; there was three or four years that he stayed down there and then he came up to the Nation and married up here, and lived up here, and he came down there at the division of his father's estate, I suppose '58 or '59.
- Q. Did he live in Texas before the war? A. He was raised in Texas, but he left there before the war and came up here to Sequoyah District.

BY MR. HASTINGS:

- Q. Was Walker Mayfield in the army? A. Yes sir.
- Q. Were you in the army with him? A. Part of the time.
- Q. And you went back to this same place in Texas.
- A. Yes sir.

- Q. And did you know him there in Texas after the war until you left to come up here in April, '67? A. Yes sir.
- Q. And did Walker Mayfield live there in Texas continuously after the war until he left to come up here? A. Yes sir.
- Q. With whom was his mother making her home? A. She had her own place there; he lived with her.
- Q. Then Walker Mayfield had never made a trip to the Cherokee Nation after the war until this time that you spoke of after you came up here? A. No sir.

WITNESS EXCUSED.

EZEKIEL HARNAGE, being duly sworn by E. P. Rasmus, testified as follows:

EXAMINATION BY MR. HASTINGS:

- Q. Your name is Ezekiel Harnage? A. Yes sir.
- Q. Your postoffice? A. Poyil.
- Q. How old are you? A. I am sixty-five years old.
- Q. Did you know Walker Mayfield during his life time? A. Yes sir, I did.
- Q. What relation was he to you? A. He was my cousin.
- Q. Were you in the Civil War, in the army? A. No, I never was in the army.
- Q. Were you outside during the war? A. Yes sir.
- Q. When did you come back to the Cherokee Nation?
- A. The sixteenth day of December, 1866.
- Q. To what point in the Cherokee nation did you come?
- A. Sequoyah District.
- Q. How far from Fort Smith, Arkansas? A. It was about a mile to the River, and up.
- Q. Did you continue to live in that vicinity, in the Cherokee Nation, on this side of the River, a for a few years thereafter?
- A. Yes, I lived down there for two years, I think it was.
- Q. Then you lived there during the years of '67 and '68? A. Yes.
- Q. Do you know whether Walker Mayfield remained in the Cherokee Nation during the war? A. He refugeeed to Texas.
- Q. Did you live in the same community in Texas? A. Yes sir.
- Q. Which left there first? A. I left there first.
- Q. Did you leave him in Texas? A. Yes sir.
- Q. When did Walker Mayfield return to the Cherokee Nation?
- A. Well, about, to the best of my recollection of that matter, he returned here about the latter part of March.
- Q. Of what year? A. '67.
- Q. Then he came the following spring after you came?
- A. Yes sir, that's it.
- Q. To what point did he come? A. To his place in Sequoyah District, about four miles from where we lived.
- Q. Was that a sparsely settled country then? A. Yes sir, there was some settlements there, off in the prairie, but not thickly settled.
- Q. Did you hear of his coming at that time? A. Yes sir.
- Q. You say he was related to you? A. Yes sir.
- Q. Now, why is it that you fix it about the last of March, '67.
- A. Well, I can tell you a circumstance; Martin Bell's Will was

a little bit of a boy, and he went off up there and stayed all night, took the boy up there, and my sister gets uneasy about the boy, and we went up there to Walk Mayfield's house and found the boy there.

- Q. And you found walker Mayfield there? A. Yes sir.
 Q. And he had just returned? A. Yes, just a few days before.
 Q. And you remember from that circumstance that it was the last of March, '67? A. Yes sir.
 Q. And that was his first trip to the Cherokee nation after the war? A. Yes sir, he made a crop in Texas in '66, I know.
 Q. Did he come up in the Cherokee Nation in the fall of '66, about the time you did? A. No.
 Q. Did you know his slave, Henry We at?
 A. I knew that family of negroes.
 Q. Do you know whether he brought them with him? A. Yes sir, he did.
 Q. When he came in the spring of '67? A. Yes sir.

ON BEHALF OF COMMISSIONER:

- Q. What relation was walker Mayfield to you? A. He was a cousin of mine.
 Q. Where did he live when the war broke out?
 A. He lived in the Cherokee Nation when the war broke out.
 Q. And he went to Texas? A. Yes sir.
 Q. What part of Texas? A. Rusk County.
 Q. You don't know when he returned from Texas after the war, of your own knowledge? A. Yes sir, I know about when he returned, of my own knowledge.
 Q. Did you see him? A. Yes sir--I went up there to his house--
 Q. You saw him after he came back? A. Yes sir, shortly after he came back?
 Q. But you don't know of your own knowledge when he came back?
 A. He had only been there a few days; I don't know exactly how long.
 Q. You don't know exactly the time that he returned?
 A. No, I don't know how many days he had been home.
 Q. Did you know his former slave, Henry? A. Yes sir.
 Q. About how old a man was Henry when the war commenced?
 A. I couldn't tell you; he was a very old man, I guess he was sixty-five or seventy years old at that time, I do not know for certain.
 Q. Did he have any children that you know of? A. Oh, yes.
 Q. Do you know any of their names? A. Yes, I knew that Houston-- It has been so long I have forgotten the names.
 Q. Where was this slave, Henry, when you returned to the Cherokee Nation? A. He was in Texas.
 Q. Do you know that of your own knowledge?
 A. Yes sir, I know that of my own knowledge?
 Q. How about the children of Henry, do you know of your own knowledge where they were? A. They were right there with him.
 Q. Who came back from Texas with you? A. Well, when I came I had a sister came with me, and a couple of children, and a family of negroes and Osa Harlin came with us.
 Q. Was that all that came with you? A. And I think there was another family came with us, another family of negroes,

- I think it was that blacksmith down at Buffington's. His wife came with us and several little children, came with us up to where he was. I forget his name now.
- Q. Can you remember now the slaves that stayed in Texas better than the ones that came with you? A. I don't know; but I never knew anything about that woman that came with us until we started up from Texas. We just hired to her husband to bring her back.
- Q. Were your father and mother living when you returned from Texas? A. My father was living.
- Q. Where did he go during the war? A. He was in Texas.
- Q. When did he return? A. Well, he returned--he--let-me-see-- I don't remember just exactly the year that he did get back; He died in 1892, and he had not been back over a year or such a matter when he died.
- Q. Can you remember better when Walker Mayfield returned than you can when your father did? A. Why, certainly, I was right there at his house a few days after he returned, and father, he never settled down here like Mayfield did.
- Q. Had you some brothers and sisters in Texas? A. I had some half-brothers and sisters in Texas.
- Q. Did they ever come to the Cherokee Nation? A. All but one.
- Q. When did they return to the Cherokee Nation, those that came after you came? A. Well, I don't remember when they came. They came up here after I did; I was up here in this country.
- Q. Can you remember any year in which any of them came? A. No, I cannot state that clearly.
- Q. Well, how is it you can remember better when Walker Mayfield came than when any of your brothers and sisters came? A. Well, I know about this.
- Q. When was the first time you saw Henry West in the Cherokee Nation after the war? A. Pretty soon after they got here. He was at the farm, and Walker moved up to his residence in the hills. But I seen some of his children there I think when I went up there and stayed all night.
- Q. You didn't see Henry? A. Not that particular time, that I remember of.
- Q. When was the first time that you saw Henry after his return from Texas? A. I couldn't tell you just exactly when I seen him.
- Q. Then you don't know when he returned--Henry West? A. He returned with Walker Mayfield.
- Q. You did not see him? A. I have always understood and heard--
- Q. Of your own knowledge do you know when he returned to the Cherokee Nation after the war? A. I know in my own mind:
- Q. Of your own knowledge do you know? A. Well, he came with Walker Mayfield.
- Q. Do you know of your own knowledge when any of his children came back? A. Not of my own knowledge except as I supposed from--
- Q. All you know is that your impression is you understood that Walker Mayfield had come back? A. Yes sir, about the time Walker Mayfield came back.
- Q. You don't know of your own knowledge when either of them came? A. Well, I knew they got back about the place.
- Q. You think it was about the last of March, the first time you saw them in the Cherokee Nation after the war? A. Yes sir.

Mr. HASTINGS:

- Q. You were living in the same neighborhood? A. Why, certainly.
 Q. Could Walker Mayfield, who was a relative of yours, have moved back and lived for any considerable time at that place without you knowing it? A. No sir, never.
 Q. Then you know within a few days of the time he returned?
 A. Yes sir.

The Cherokee Nation desires to explain that these freedmen claim to have returned with Walker Mayfield in their own testimony.

HENRY MINOR being first duly sworn by B. P. Ramus, testified as follows:

EXAMINATION BY MR. HASTINGS:

- Q. What is your name? A. Henry Minor.
 Q. What is your postoffice? A. Overton.
 Q. Texas? A. Yes sir, Rusk County.
 Q. How old are you? A. The ninth of next month I will be sixty years old.
 Q. How long have you lived in Texas? A. Since '49.
 Q. Were you in the army? A. A few months; post guard.
 Q. Immediately after the war did you reside in Texas?
 A. Yes sir.
 Q. In Rusk County, Texas? A. Yes sir.
 Q. Did you know Walker Mayfield? A. Yes sir.
 Q. Did you know him in Texas, after the war? A. Yes sir.
 Q. How far did you live from him? A. About three miles and a half.
 Q. Do you know anything about whether he continued to live in Texas or left there? A. He left there.
 Q. Do you know where he moved to? A. He came to the Nation; at least that was where he started.
 Q. To the Cherokee Nation? A. Yes sir.
 Q. Do you know when he started to move from the state of Texas after the war? A. Well, I caught up with him one day, they were moving at that time, were a half-days journey then, and had stopped to fix dinner, and they tried to hire me to come with them to drive team.
 Q. Who did? A. Walker Mayfield, and that was the very last day of February or the first of March, '67.
 Q. 1867? A. Yes sir.
 Q. Do you know Thomas Still, this witness who testified here?
 A. Yes sir.
 Q. Did you know him in Texas at that time? A. Yes sir.
 Q. Do you know whether he left Texas at that time?
 A. I did not know at that time, but Mr. Mayfield told me he had gone. I lived right close to them, me and his youngest brother used to be together near every Sunday.
 Q. But you did not know that Mr. Still had gone until they told you? A. No sir.
 Q. Did you come to the Nation with them? A. No sir, I had rented me a place from an old preacher and started to make a crop.
 Q. Why do you fix it the last day of February or first of March?

- A. Why, I had went ahead and prepared all my ground for planting but had not planted any, and I told him I had done too much work to leave it.
- Q. And that was the reason that you did not hire to him, or one of the reasons? A. Yes sir; I had rented from this good old preacher, and--
- Q. Did they have some wagons, and were moving? A. Yes sir.
- Q. Had covered wagons? and colored people with them?
- A. Yes sir; I disremember how many of them, but had colored people with them.
- Q. They said they were going to the Cherokee Nation? A. Yes sir.
- Q. After the war did you know Walker Mayfield all the time up to that time? A. Yes sir.
- Q. Did he live all the time, after the war, down there in Texas? A. Yes sir.
- Q. And this was his first removal to the Cherokee Nation after the war? A. Yes sir.
- Q. Do you know whether it was coming the spring of the year? A. Yes sir, spring of the year.
- Q. Do you know whether grass had commenced to come up? A. Yes sir. You know we plant along in March and April, plant corn, and along about the last of April plant cotton.

CROSS) EXAMINATION BY MR. WOLFENBERGER:

- QQ. What is your name? A. Henry Minor.
- Q. How long have you been in this country? A. Ever since '49.
- Q. Been living here continuously ever since '49? A. Yes sir, moved to this country in '49.
- Q. You have been living in the Indian Territory since 1849? A. Oh, no sir, in Rusk County, Texas.
- Q. How long have you been in this country? A. Since last night; I got here this morning, I don't know when I came over the line.
- Q. You live in Rusk County-- that's in Eastern Texas? A. Yes sir, that's my home.
- Q. Well, in Rusk County you get ready to plant corn the last of February or first of March? A. Yes sir.
- Q. Steak is turned out down there the last of February or first of March? A. Well, all winter; grass don't do much good though until along in April.
- Q. Now, you say you know Mr. Mayfield-- what Mayfield was it you knew? A. Walker and Curge Mayfield.
- Q. When was the last time you saw him? A. I haven't never seen him since.
- Q. What year was that in? A. '67.
- Q. How do you know it was '67; been a long time ago, what brings it up in your mind that it was '67?
- A. Why, I had worked the year before that, for a fellow, making a crop, and he was to pay me \$100, and he did not pay me but \$40, and I said I wasn't going to work out no more, and I went and rented this place from the old preacher, and it was the first crop I ever made for myself.
- Q. When did you go to Texas? A. In '49.
- Q. And that was the first crop you ever made?

- A. That was the first crop I ever made for myself; of course I had been at work all the time.
- Q. When did you first learn that he wanted you to come up here?
- A. That was the first time?
- Q. When did you first learn that the Cherokee Nation wanted you as a witness in this case? A. I believe it was Saturday?
- Q. From whom did you learn that the Cherokee Nation wanted you here? A. Well, Mr Still came to me and got to talking to me about it, and I told him yes, and all, and he brought this gentleman here, (Indicates Mr. J. M. Keys, Special Marshal for Cherokee Nation), and introduced him, and he summonsed me to come.
- Q. Who did you first tell about making a crop there in '67?
- A. I told Mr. Keys.
- Q. When did you tell the Cherokee Nation what you knew about this case? A. I believe it was Saturday.
- Q. You never thought about it from 1867 until 1906? A. No sir.
- Q. Never thought of it? A. No sir.
- Q. Have you got anything to refresh your memory, to make you remember that it was 1867? A. Well, as I told you, it was the first crop I ever made for myself.
- Q. Is that all the reason you can give for recollecting forty years back that it was a certain day? A. Certain day? I don't say the day, but I can remember clean back the years, yes sir.
- Q. How old a man was Mayfield? A. I could not tell you that.
- Q. About how old? A. He looked to me like he was along up in fifty, probably.
- Q. Fifty years old, do you think? A. Yes sir
- Q. And you say you think they left there along about the first of March, 1867? A. Yes sir, to the best of my knowledge it was in March.
- Q. You are not positive of that? A. Yes sir.
- Q. You would not state positively that was a fact, would you?
- A. It was either the last of February or first of March.
- Q. Along there? A. Yes sir, right along there.
- Q. You stated you had prepared ground to plant corn; you plant corn there the latter part of March or February? A. Yes sir.
- Q. Now, I ask you what time do you plant corn down there, Don't you plant corn in Rusk County the last part of February or first of March? A. No, I don't plant in March; I never do like to plant too soon.
- Q. Now, at the time you plant corn down there, don't you know that everything is perfectly green down there, all the timber put out, and grass up the latter part of February or first of March? A. No sir.
- Q. How does the grass come up in Rusk County in comparison with Wood County and Custer County?

Objected to because it is not shown that this witness knows what time grass puts out in these other counties, and he therefore cannot make a comparison.

Mr. Wolfenberger: Now, please the Court, he stated that the grass was putting out when he was getting ready to plant corn.

Mr. Hastings: The State of Texas is an empire in itself, and unless this witness is shown to know what time grass puts out in all of these counties, of course no comparison can be made by him.

Objection will be noted.

- Q. now, you stated that they wanted to hire you to come through with them? A. Yes sir, to drive a wagon.
- Q. And the reason you did not come, you had prepared your ground and was fixing to plant corn? A. Yes sir.
- Q. Now how long before you planted corn was it, before you planted corn? A. They came before I planted corn.
- A. A good long while? A. Yes sir, there came a snow the fourteenth day of March and I had to replant.
- Q. Now how long was it before that, you say your corn was coming up the 14th, now how long before that was it that they left there? A. Well, I had my ground ready, the land, probably along-
- Q. Now, don't you know as a fact, that you got your ground there ready to plant the latter part of January and February? A. No sir.
- Q. That is not a fact? A. No sir, it is not.
- Q. What time do you prepare your ground? A. Hardly ever commence plowing before February.
- Q. You don't turn your fields in the fall of the year? A. Some people have got to doing it now.
- Q. Well, they follow the same old round of farming? A. No sir, they do better farming recently than we did in the old days.
- Q. Now, I believe you said that you did not know when these people come up here, but thought the latter part of March, but you don't know when they did get here? A. Yes sir.
- Q. What year was this? A. '67.
- Q. And you can not give any reason for this only you were preparing to plant your corn? A. As I told you, that was my first crop.
- Q. You were in the army, I believe you said? A. Yes sir, I was post guard for a short time.
- Q. How far did you live from where Mr. Mayfield lived? A. It was about three miles and a half.
- Q. Anybody else living around there? At that time? A. I had a brother-in-law I was living with.
- Q. How far from Mayfield? A. Three and a half miles.
- Q. Any body else? A. Oh, yes sir.
- Q. Who else? A. Well, Starre, Morris's, a family of Watsons, lived right there.
- Q. Now you say- that man Morris and Starr are still living there? A. No sir, they moved off to Arkansas, and I heard the old man was dead.
- Q. Who else is living there now that was living there when Mayfield was there? A. Well, Johnson Still, Charley Sphinx.

- Q. Are they living there now? A. No he is dead.
Q. Well, who is living there now that was living there then?
A. Well, I don't know now, they are all dead that I know of.
Q. All dead but you? A. Tom Still and his brother, Dr. Still
up there.
Q. Where is Tom Still? A. In this other room here.
Q. Now, you state that in 1867, when you were getting ready to
plant corn do you and at that time but you don't get ready
to plant corn-

MR. HASTINGS: We move that the Attorney be required to
separate his questions as they are two separate and dis-
tinct questions.

- Q. Now sir, can you tell the Court again how you know, how you
fix the time that it was in 1867 when these parties left down
there, I will get you to fix the time. Give us a reason
for it? A. Well, that was it; Now, I was fixing to make a
crop for myself, not to hire any more, and the fellow I lived
with that year did the cooking for me and I had to furnish
an equal part. It was my half-sister, she did my cooking
for nothing, but I had to furnish my proportion of the funds
and we rented land from the preacher, and that was in '67,
the spring of '67.
Q. And that is all the reason you can give for fixing it in 1867?
A. Yes sir, and I want to tell you, a heap of times we never pre-
pare our ground at all.
Q. Well, I just want you to fix the time, that's all.
A. Well, that is all; that was the first crop I made.

MR. HASTINGS:

- Q. You say there was a snow there on the fourteenth of March? 1867?
A. Yes sir.
Q. Was that an unusual snow? A. Yes sir.
Q. Do you remember positively that it was on that date?
A. Yes sir, I do.

MR. CRAVENS:

- Q. Don't they frequently have these Northerns in Texas?
A. Sometimes.
Q. Don't they frequently? A. Not down there in the timber.
Q. What part of Texas is that? A. Rusk County.
Q. What part of Texas is that with reference to Dallas?
A. Way east of that.
Q. What is the County seat? A. Henderson.

WITNESS EXCUSED.

T. H. STILL, RE-CALLED.

CROSS-EXAMINATION BY MR. GRAVENS:

- Q. Just prior to the war did you know Mr Mayfield in Texas?
A. Not immediately prior to the war; I did a few years before.
- Q. You stated you knew him in Texas? A. Yes sir.
- Q. That was before the war? A. Yes sir; I thought you had reference to knowing him continuously, and I may have been in error in saying '59 possibly it was '58. When his father died he was a resident of the Nation.
- Q. That in '59? A. Previous to that.
- Q. Previous to '59? A. I expect-- let '59 remain; I was married in '57, he remained there awhile and came off to the Territory and married here, his father died that same fall I married, in '57, and either in '58 or '59 he came back there and had a settlement of the estate.
- Q. He came back from the Nation? A. Yes sir, he only remained long enough to have a settlement and came back, I don't know, in '59 or '58.
- Q. How long did he remain in Texas pending that settlement?
A. Only a few months.
- Q. Then he came back to the Cherokee Nation?
A. Yes sir, and remained until the war broke out, then he came back there as a refugee.
- Q. You married his sister? A. Yes sir.
- Q. When were you married? A. In '57.
- Q. Do you remember the day of the month? A. The third day of September.
- Q. Did Mr. Mayfield come back to the Cherokee Nation after the war? A. Yes sir.
- Q. When? A. In the Spring of '67.
- Q. How do you fix the time, Mr. Still? A. Because I came that year; I moved up--I left Texas about the first of March and arrived at Fort Smith about the last of March, and he was behind us. I left him in Texas.
- Q. How do you know that was in the year 1867? How do you fix that in your mind? A. The war closed in '65; in '66 I made a crop in Texas, and I came up here in the fall of '66, prospecting, and the Spring of '67 I moved.
- Q. Did you make only one crop in Texas after the war? A. I had some negroes that made a crop; I don't know whether they raised much or not, while I was in the army.
- Q. Were you in the Confederate army? A. Yes sir.
- Q. When did you enlist? A. In '61.
- Q. Under whom did you serve? A. In whose Brigade: Eckards Brigade the first two years and--
- Q. When were you mustered out? A. Well, I just quit, I wasn't mustered out.
- Q. When? A. In April I think it was, '65.
- Q. How long after that before you came to the Cherokee Nation prospecting? A. The fall of 1866.
- Q. How long was that? A. After I was mustered out?
- Q. Yes? A. Well, that was in April, '65.
- Q. About a year then? A. And then I was up here in about September, '66.
- Q. Where did you come to the Cherokee Nation?
A. Where did I come?
A. Yes sir? A. I came first to Norfolk

where Judge Adair, a friend of mine and another brother-in-law of mine were, and went over in Flint District.

- Q. How long did you stay over there? A. I stayed two or three days in Norfolk, and then went up there and stayed two or three days.
- Q. And then how long before you moved up in Mayfield's old neighborhood? Did you move up where he had formerly lived?
- A. I moved up above there several miles.
- Q. How long after you came down to Norfolk?
- A. When I was at Norfolk was in the fall of '66. In the spring of '67 I moved up in Flint.
- Q. Did you go back to Texas between the fall of '66 and the Spring of '67? A. Yes sir, certainly.
- Q. When? A. Why, I only came up here on a prospecting trip in the fall of '66, and went back.
- Q. How long was you here? A. A month or two.
- Q. And Mr. Mayfield was there when you went back? A. Yes sir.
- Q. Is that the only way that you fix the year, that you only made one crop after the war before you came up here, have you any record of it? A. No, but I remember it very distinctly.
- Q. When were you married? A. In '57.
- Q. Have you a record of that? A. No sir.
- Q. Well, with reference to your marriage, how long after that time before you came up here? A. About nine years.
- Q. To live? The second time you came up here? A. Well, that was nearly ten years.
- Q. Were your relations with Walker Mayfield friendly or unfriendly? A. Always friends.
- Q. You married his sister? A. Yes sir.
- Q. Is she a citizen? A. She is dead.
- Q. Was she a citizen? A. Well, she would have been if she had lived.

BY. MR. HASTINGS:

- A. I was going to ask you, Mr. Still, about how long it took you to move in wagons from where you lived in Rusk County, Texas, to the Cherokee Nation, in the ordinary course of travel?
- A. I was about a month, nearly, on account of high waters; it ought not to take more than fifteen days, ordinarily.
- Q. Do you remember why Walker did not come when you did?
- A. There were two reasons, one was he was not quite ready, and-

Objected to by Mr. Gravens, Attorney for applicants, as calling for an opinion of the witness.

Objection will be noted.

- A. And besides that, I was bringing a lot of cattle and hogs and would travel slower than he would.
- Q. Would that necessitate you coming the same route?

- A. Well, another reason; I came a route that he did not want to travel; I went lower down to cross the streams at ferrys and our most direct route was to cross the streams higher up.
- Q. And I was going to ask you if you remember any unusual snows during the month of March 1867?
- Q. Yes sir, while I was on my trip I remember very distinctly, for it was impressed on my mind, that after we crossed Red River it snowed on us all day the next day, and we found an empty house and laid over there on account of the snow.

BY MR. GRAVENS:

- Q. Did you haul cotton to New Orleans for Mr. Mayfield in '66?
- A. I expect I did.
- Q. Did you or did you not? A. I hauled cotton for several of the family and I think for him. I gathered my crop and hauled it to Shreveport and sold it for thirty-two cents, and I had my teams, and the family, sons and sons-in-law, sent cotton by me and I took it down there and could only get eighteen cents and I was afraid they would be dissatisfied, and I shipped it to New Orleans, and I went back and told them what I had done, and told them I would pay them for the cotton or they could take the price in New Orleans, and they wanted the money and I paid them.
- Q. When was that? A. That was in '66, the latter part of the fall.
- Q. And they were getting ready to come up here? A. Yes sir.
- Q. When did you say you came up here? A. In the Spring of '67.
- Q. What month? A. March.
- Q. And you were about a month on the road? A. About a month; left about the first of March and got to Fort Smith the latter part of March; have no record of the dates, but I remember it very distinctly.
- Q. You don't know when he left there, then? A. He left after I did.
- Q. You don't know how long? He may have left the next day.
- A. No sir. He was there when I left.
- Q. How long would it take a man to come from Rusk County, Texas to the Cherokee Nation? A. About fifteen days, with a wagon and team.

BY MR. WOLFFENBERGER:

- Q. Are you certain that it was in the year 1867 or in the spring of '66? A. I moved up here to remain in the Spring of '67.
- Q. Are you certain, or are you mistaken?
- A. No sir, I could not possibly be mistaken.

ARAMINTA PACK being first duly sworn by P. P. Ramus, testified as follows:

EXAMINATION BY MR. HASTINGS:

- Q. Your name is Araminta Pack? A. Yes sir.
- Q. Your postoffice? A. Muldrow.
- Q. Your age? A. Sixty-three.
- Q. How long have you lived in the vicinity of Muldrow?
- A. All of my life.
- Q. Did you live there during the war? A. No sir.
- Q. Did you go out during the war? A. Yes sir.
- Q. When did you return? A. In '65, came back on the other side of the River.
- Q. When did you return to Sequoyah District? A. In the fall of '66.

- Q. How far did you locate from Fort Smith? A. About four miles.
 Q. Well, now, what time did you locate there in the vicinity after the war? A. Why, in '66.
 Q. What time of the year? A. In the fall.
 Q. Did you know Walker Mayfield in his life time? A. Yes sir.
 Q. Did you know his wife? A. Yes sir.
 Q. You say you know his wife? A. Yes sir,
 Q. What was her maiden name? A. Jane Blackburn.
 Q. Was she related in any way to you? A. Yes sir, she was my cousin.
 Q. Your cousin? A. Yes sir.
 Q. How far did you live from Walker Mayfield's old place?
 A. His home place? A. About four miles.
 Q. Did he have two places? A. Yes sir, his home place and his bottom farm.
 Q. How far did you live from his bottom farm? A. About a hundred yards.
 Q. When you came back there was Walker Mayfield living in that vicinity, anywhere? A. No sir.
 Q. Had he gone out with his family during the war? A. Yes sir
 Q. Where did he go? A. He went to Texas he said.

CROSS-EXAMINATION BY MR. CRAVENS:

- Q. You don't know that? A. Not of myself.
 Q. You know he was out of the Cherokee Nation? A. Yes sir.
 Q. Do you know of the circumstances of his coming back?
 A. Yes sir, he came back in the spring of '67, I know because I moved to my place in the fall of '66, and he came back the following Spring. In April, I don't know the day, the next Spring.
 Q. The April following your return? A. Yes sir.
 Q. And you returned in the fall of '66? A. Yes sir.
 Q. His wife was a cousin of yours? A. Yes sir.
 Q. Did they come by your place when they returned? A. Yes sir, they came there and stopped.
 Q. And then went on to his place? A. Yes sir.
 Q. You say he had a bottom farm adjoining yours? A. Yes sir.
 Q. And he resided on a farm at some distance? A. Yes sir, up on the prairie.
 Q. Are you positive that was in the spring of '67? A. Yes sir
 Q. And you fix it by the time of your return, do you? A. Yes sir.
 Q. What makes you think it was as late as April?
 A. I know it was because he brought some seed potatoes from Texas, and I said it was too late to grow slips, I told him we always took up our potatoes in March, and he gave me some and I just planted the potatoes in the rows.
 Q. That was sweet potatoes? A. Yes sir.
 Q. Do you know whether or not they had any negroes with them?
 A. Yes sir, they had some.
 Q. His wife was a first cousin of yours? A. First cousin of my father's, my second cousin.
 Q. You had known them before the war? A. Yes sir.
 Q. Both of them?

A. Yes sir, I knew them both; I knew her ever since she was small and I was small, but I knew him too.

BY MR. WOLFENBERGER:

- Q. What time did you go to Texas? A. I never went to Texas. I went to the Choctaw Nation.
- Q. When did you go down there? A. In '61.
- Q. How when did you come back to the Cherokee Nation? A. In '66.
- Q. How far did you say you lived from Mr. Mayfield's place?
- A. We lived four miles from his home place, but lived joining farms to his bottom place.
- Q. When Mr. Mayfield came back did he come to his home place or to his bottom place? A. He came right up to my house when he crossed the River from Fort Smith, and to his farm.
- Q. You are sure that was in '66? A. That was in '67.
- Q. You say he brought some potatoes with him? A. Yes sir, sweet potatoes.
- Q. How long ago has that been? A. Well, you must count up the years.
- Q. Been about forty years ago? A. Yes sir.
- Q. Now, what is it, Mrs. Pack, that fixes it in your mind to make you know that Mr. Mayfield came back there in March or April, '67? A. Because I know I moved to my place in the fall of '66, and he came the following Spring; I would not say the day of the month, but I know it was April.
- Q. Could you not be mistaken about that? A. No sir, I could not.

BY MR. CRAVENS:

- Q. From whom did you get that place that you were living on?
- A. Why, it belonged to my mother's husband.
- Q. Who did he get it from? A. He bought it from some heirs.
- Q. At that time was Walker Mayfield and his slaves there? A. Yes sir.
- Q. When was it bought, with reference to the time you returned?
- A. Why, I don't know.
- Q. Before or afterwards? A. Afterwards.
- Q. How long afterwards? A. We bought it just before we moved down there, we bought it from an estate.
- Q. And Mayfield was there? A. Mayfield was in Texas.
- Q. You just said to that question that he was there?
- A. No, we bought it from the heirs, bought them up, and moved down there in the fall.
- Q. And at that time Walker Mayfield was there with his slaves?
- A. No sir, he was in Texas; his farm was there, but he wasn't.
- Q. Then when you stated that he was in the Cherokee Nation at the time that you bought this place, you were mistaken?
- A. No sir, he wasn't there when my husband bought it.
- Q. Then might you not be mistaken as to the time you returned?
- A. No sir.
- Q. By what other circumstances, aside from this fact, do you fix the time? A. Well, it was a wet, rainy month, and while he was there the lightning killed two of his mules.
- Q. But a good many Aprils are wet rainy months?
- A. Well, I know that year was rainy.
- Q. But a good many Aprils are rainy months? A. Yes sir.
- Q. When did the war close? In '64, I guess.
- Q. Are you as sure about that as you are about the time you returned to the Cherokee Nation? A. I know when I came.
- Q. Are you as sure about the time of the close of the war as you are about the time of your return? A. Yes sir, I reckon.

BY MR. HASTINGS:

- Q. You came back to this place the year of 1867? A. Yes sir.
 Q. Where were you in '66? A. Well, in '66 I was in the Choctaw Nation, and then in the Spring we moved over on this side, above Redlands and stayed there until my husband bought out the heirs of this place and then we moved there. We didn't make any crop there where we first lived.
 Q. And you say Mr. Mayfield came there the spring after you moved there? A. Yes sir, the following spring.
 Q. How are you positive that the year the war closed was '64? A. Well, I am not sure, I think it was.
 Q. Where were you during the war? A. Down on Red River.
 Q. In the Choctaw Nation? A. Yes sir.
 Q. Did not have any fighting down there? A. No sir.

By Mr. GRAVES:

- Q. Mrs. Pack, I don't want to confuse you, but how long after the war closed before you returned to the Cherokee Nation?
 A. We came back the same fall, in '65, and made a crop, and then we came over on this side of the River.
 Q. Well, how long was that after the close of the war?
 A. Why, we made a crop after the war, we came from the Choctaw Nation on the other side of the River and made a crop there, and then came over here.

By MR. VOLFMEYER:

- Q. Was Mr. Mayfield there then? A. No sir.
 Q. How long after that was it he came? A. I came there in the fall of '66, and the next spring he came right to my house.
 Q. He came to your house-you don't know when he came to the Cherokee Nation? A. Yes sir, he just came right to Fort Smith, and came right on over there.
 Q. You don't know that he just came to the Cherokee Nation then?
 A. Yes sir, he did.

Mr. HASTINGS:

- Q. You know he had just gotten into the Nation? A. Yes sir.
 Q. You made a crop in '66 in the Choctaw Nation? A. Yes sir.
 Q. Now, then, in '66, where did you go? A. On this side of the River, above Redlands.
 Q. And then you moved down to this place you spoke of the following fall? A. Yes sir.
 Q. That was the fall of '66? A. Yes sir.
 Q. Then it was in the spring following that that Walker Mayfield came? A. Yes sir.

By MR. GRAVES:

- Q. How late in the Spring? A. In April.
 Q. How do you fix the time as April?
 A. Because, as I said, he brought me some sweet potatoes, and I said, "Walker it is too late to plant out sweet potatoes; we will just plant them in the rows, we always take up our seed potatoes in March."
 Q. When did the war begin? A. In '61.

- Q. Are you married, or have you been? A. Yes sir.
- Q. When were you married? A. I don't know exactly, the day, sometime in 1860.
- Q. Do you pretend to say that you know the month and year in which Walker Mayfield returned from Texas, and can not even give the date of your own marriage? A. Well, it has been so long.
- Q. May you not be mistaken about the time of your return?
- A. Because I know when I came.
- Q. Which was the most important, your return to the Cherokee Nation or your marriage? A. Well, of course—coming home or marrying?—I really don't know which, because I wanted to come home.
- Q. Have you been married only once? A. Twice.
- Q. When were you married the last time? A. 1877.
- Q. What month? A. I think it was in August.
- Q. How long was that after you returned to the Cherokee Nation?
- A. Before I returned? No it wasn't.
- Q. Well, when was it in reference to the time you returned?
- A. My first husband died in 1875.
- Q. What month? A. March.
- Q. What day? A. The tenth day of March. And I married the next time in '77.
- Q. Now, when was that in reference to your return to the Cherokee Nation? A. Why, I came back here in '66, and I married the last time in '77; my first husband lived till '75.
- Q. Ten or eleven years? A. Yes sir.
- Q. Have you any children? A. Yes sir.
- Q. Living? A. Yes sir.
- Q. How old is your youngest child? A. Twenty-six.
- Q. When was he born? A. Twentyfourth of August.
- Q. What year? A. 1860.
- Q. What is the age of your eldest child? A. Born the second day of January, 1861.
- Q. When was that with reference to the beginning of the war?
- A. The year the war begun.
- Q. How many grandchildren? A. One.
- Q. What is the date of its birth? A. Eighth of August, '78.
- Q. Have you a written record of the dates of their birth?
- A. Yes sir.
- Q. Have you a record of the date of your marriage? A. No sir.
- Q. Mrs Paak, who told you you returned to the Cherokee Nation in 1866? A. Why, I know I did.
- Q. Has anyone told you recently? A. No, there haven't.
- Q. Have you had your memory refreshed in anyway at all, recently, as to the date of your return? A. No sir, I always knew when I came back.
- Q. Has anyone talked with you about when you came back, recently?
- A. No sir.
- Q. Is this the first time you have been asked to recollect the time that you returned to the Cherokee Nation since that time?

- A. No, I have stated it here before, but not in this case.
 Q. In a companion case? A. In another case, not this case.
 Q. In a Cherokee freedman case? A. Yes sir.
 Q. Was it in reference to the time of your return? A. Yes sir.
 Q. How long ago was that? A. I don't know. I have been before this Commission three or four times.
 Q. What case was that you referred to, what freedman case, can you remember the name of the applicant? A. Frances Bailey was one.
 Q. What town did you live in in the Cherokee Nation since the war?
 A. Never lived in any town.
 Q. What is your nearest town? A. Muldrow is the nearest now.
 Q. At that time- when you returned? A. Fort Smith was the nearest.
 Q. You don't know when Walker Mayfield returned to the Cherokee Nation? A. In April, '67.
 Q. You don't know when he--A. He said he was just coming in.
 Q. You are positive as to what he said? A. I know he was just coming in.

BY MR. HASTINGS:

- Q. He had his things in his wagon? A. Yes sir.

Mr. Cravens:

- Q. He might have stopped some place else and still have his things in his wagon? A. I suppose so.

MR. HASTINGS:

- Q. How far was he from the Arkansas line? A. Four miles.
 Q. Is that the only route he could have taken?
 A. That was the nearest; that was the route.

L. B. BELL, being first duly sworn, testified as follows:

MR. HASTINGS:

- Q. What is your name? A. L. B. Bell.
 Q. Residence? A. Vinita.
 Q. Your age? A. Sixty-eight.
 Q. Where were you the first two or three years after the war? Say in '65 and '66?
 A. Well, up to May, '65, I was in the army. After the surrender and disbandment I went to my family in Rank County, Texas, and stayed there until in '67.
 Q. Did you know this man, Tom Still, who has testified here to-day in Texas? A. Yes sir.
 Q. Did you live in the same vicinity? A. Yes sir, five or six miles apart.
 Q. Did you know Walker Mayfield? A. Yes sir.
 Q. Did you know him before the war? A. Yes sir, knew him ever since I could recollect; knew him here before they went down there; then he came back up here and I knew him, and--
 Q. Did he come to Texas during the war? A. During the war, about '62 or '3, he went back to Texas where his mother lived, and I knew him there.
 Q. Was he in the Army? A. I think he was in the army.
 Q. You knew him there after the war? A. Yes sir, we were all in the same family; kin-folks.

- Q. You and he and Still lived in the same neighborhood?
 A. Yes sir, all the time. Still married his sister.
 Q. That time did you leave there to go to the Cherokee Nation?
 A. I left my home there and went some five or six miles, to where my sister and brother-in-law lived, on the 24th of March and we waited there a day for him to get ready; and started on the 25th day of March.
 Q. What year was that? A. 1867; March, 1867.
 Q. Do you know whether or not Walker Mayfield had left that country when you left? A. I think he had left a week or ten days before I did. It may have been a little earlier, we were all busy getting ready to leave there, I had to get my cotton off to Shreveport and get ready, and I had not seen him for probably two or three weeks before I left.
 Q. Before you left on March 25? A. Yes sir.
 Q. You knew he was preparing to leave? A. Yes sir. I understood he was gone. His mother left a little earlier than that.
 Q. Do you know whether his mother came with Tom Still?
 A. That was my understanding; I could not say that for a fact. She was a widow, and she was living with him after they got here; I did not see them until they had been here about a year.
 Q. You had not seen Walker Mayfield for some two or three weeks before you left on March 25, 1867? A. No, I had not.
 Q. Did you understand that he had gone?
 A. Yes sir, the last time I had seen him was at a little town called Belleville, between his place and mine, where we did our trading a good deal.

CROSS-EXAMINATION BY MR. CRAVENS:

- Q. You do not undertake to state the time of his leaving at all?
 A. The day?
 Q. Yes sir? A. No I did not do it.

COMMISSIONER:

- Q. Did you know a slave of his called Henry?
 A. Yes sir, I have seen Henry; did not know much about him.
 Q. Do you know what time he left Texas? A. No, I seen more of Henry here than I did in Texas.
 Q. You don't know anything about when he left Texas? A. No sir,
 A. No sir, I don't know anything about when he left Texas.

OSCAR ADAIR, being first duly sworn by B. P. Ramus, testified as follows:

EXAMINATION BY MR. HASTINGS:

- Q. What is your name? A. Oscar Adair.
 Q. O. F. Adair? A. Yes sir.
 Q. Your postoffice? A. Tahlequah.
 Q. What is your age? A. I am 56 years old last March.
 Q. You are a Cherokee by blood? A. Yes, Cherokee by blood.
 Q. Did you know Walker Mayfield? A. Yes sir.
 Q. Was he any relation to you? A. He was my uncle.
 Q. Your mother's brother? A. Yes sir.
 Q. Do you know whether he went to Texas during the war or not?

- A. Yes sir, he went to Texas during the war.
 Q. Were you in Texas during the war? A. Yes sir.
 Q. When did you leave there? A. In the spring of 1866.
 Q. In the spring of when? A. 1866, I came back.
 Q. You mean that is when you came? A. That is when I came.
 Q. Where did you come to? A. To the old Mission in the Creek Country, near Hufaula.
 Q. That was in the Creek country? A. Yes sir.
 Q. When did you come up in the Cherokee Nation?
 A. In January, 1867.
 Q. When did you leave Texas? A. In the Spring of 1866.
 Q. When did you go up in Flint District? A. Got to Flint District in January, 1867.
 Q. That was your old home, near the Arkansas line? A. Yes sir, our old place.
 Q. Do you know where Walker Mayfield's old place was in Sequoyah District, on this side the River from Fort Smith? A. Yes sir.
 Q. How far did you return, in January, 1867, from that place?
 A. We generally supposed it about thirty miles, somewhere near that.
 Q. Did your father and mother return when you did? A. Yes sir I returned with them, with the family.
 Q. When you left Texas where did you leave Walker Mayfield?
 A. In Rusk County, Texas.
 Q. When did you first see him in the Cherokee Nation after the war?
 A. I first seen him in the summer of 1867, at his home.
 Q. Do you know what time he returned to the Cherokee nation after the war? A. I don't know the exact month, but I was informed

Objected to, as to what he was informed.

Objection will be noted.

- A. Well, my grandmother came on ahead of him and located about four miles of where we were living. She came with Uncle Tom Still, and I saw them about the first part of April, and they said Uncle Walker was on behind.

Attorney for Applicants: We object to that.

Commissioner: The objection will be noted.

- Q. Did your grandmother return with Tom Still in the Spring of '67? A. Yes sir.
 Q. To what place did they come? A. To a place owned by Mr. Still, known as the old Nave place.
 Q. Near where you located in the January before? A. Yes sir, about four miles.
 Q. Is the Tom Still you mention the same man who testified in this case a few minutes ago? A. Yes sir.
 Q. Did your grandmother return with him? A. Yes sir.
 Q. And you say you made inquiry of your grandmother and of Mr. Still, at that time, about Walker Mayfield?
 A. They made mention, they told us that he was coming on behind them.
 Q. Up to that time you had not seen Walker Mayfield in the Cherokee Nation after the war? A. No sir, we had not seen him.
 Q. You lived about thirty miles above the place where Walker Mayfield located when he came back? A. Yes sir.

- Q. When did you say you had occasion to come down in that neighborhood? A. Along in the summer, after the crops were laid by.
Q. Of '67? A. In 1867.

CROSS-EXAMINATION BY MR. CRAVENS:

- Q. When did your grandmother that you spoke of, return to the Cherokee Nation? A. She returned in the spring of 1867.
Q. What month? A. To the best of my recollection, it was in April.
Q. How do you place that time in your mind? A. Well, because we were there raising a crop, and we were late in getting it planted that year.
Q. What time in January 1867 did you return to the Cherokee Nation? A. About the first part of the month; I don't remember the day.
Q. When did you leave Texas? A. In the spring of 1866.
Q. And you did not see Walker Mayfield from that time until the summer of '67? A. No sir.
Q. You don't know what time he left Texas? A. No sir.
Q. Nor what time he came to the Cherokee nation? A. Not of my own knowledge.

HOUSTON WEST being duly sworn by B. P. Ramms, testified as follows:

EXAMINATION BY MR. CRAVENS:

- Q. State your name? A. Houston West.
Q. Your age? A. Fifty-two years old.
Q. Where do you live? A. Sequoyah District, Cherokee Nation.
Q. How long have you lived there? A. I have been there all my life.
Q. Have you ever lived out of the Cherokee Nation? A. We were in Texas time of the war.
Q. When did you go to Texas? A. We went to Texas time of the war.
Q. When with reference to the beginning of the war? A. About the second year of the war.
Q. And when did you return to the Cherokee nation? A. In the winter of '66.
Q. Where did you first come to in the Cherokee Nation? A. We came across the river, about two miles on this side, and camped in the cane-brake, and stayed there until we got our houses empty.
Q. How long did you stay there? A. Three months.
Q. Do you remember about what month it was you came into the Cherokee nation? A. It was in December.
Q. '66? A. Yes sir, right close to Christmas.
Q. And then where did you go? A. Well, we moved Mayfield up to his place and we moved down on the farm, when we moved from the camp.
Q. Do you know Mrs. Pack? A. Yes sir.
Q. Upon your return did you see her? A. Yes sir.
Q. Did you come with Walker Mayfield? A. Yes sir.
Q. Did you see Mrs. Pack at her place? A. I did not; they said she was up to her father's, they was some of them sick.
Q. Where did her father live? A. About ten miles above where we did.
Q. Where you were camped? A. Where we lived on the farm.
Q. Who came with you, name everybody you can remember?

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- A. Walker Mayfield and his family, and my father and his family.
Q. What was your father's name? A. Henry West.
Q. Give the names of the former slaves of Walker Mayfield that returned with him? A. Dave, Naney, Callis, myself-Houston, Mary and Aggie, and Tom Harnage.
Q. Do you know Mr. Faulkner? A. Yes sir.
Q. Do you know when he was married? A. No sir, I don't know.
Q. When you moved Walker Mayfield to his place was the place occupied? A. Yes sir.
Q. By whom? A. By George Hughes.
Q. Did you move him out? A. My brother did.
Q. And you moved Mayfield in? A. Yes sir.

CROSS-EXAMINATION BY MR. HASTINGS:

- Q. You were a slave? A. Yes sir.
Q. You people now claim to have come back when Walker Mayfield did? A. Yes sir.
Q. What was Walker Mayfield's wife's name? A. Jane, Jane Blackburn.
Q. Now Walker and his wife moved back here at the same time you did? A. Yes sir.
Q. Your father Henry, Callis, you, and all of you that were living at that time came back at the time Walker Mayfield came? A. Yes sir.
Q. Ada Kilpatrick is a daughter of Callis West, and you claim Callis came back to the Cherokee Nation at the time Walker Mayfield did? A. Yes sir.
Q. How old are you? A. Fifty-two.
Q. You were born in '54? A. Yes sir--I reckon.
Q. You were about seven years old when the war commenced? A. I guess somewhere along there.
Q. Did you ever see this man, Tom Still? A. Yes sir.
Q. You knew him in Texas? A. Yes sir, in the spring of 1866 we made a crop down on the Sabine River for a man by the name of Rogers, right on the Shreveport road from Henderson, and we made a crop down there and in the fall Mayfield got Tom Still to bring us from Rogers's up to his house to get ready to come up here.
Q. Did you know Walker Mayfield's mother? A. Yes sir.
Q. Did she come up here with you too? A. No sir, we left her in Texas.
Q. You claim you came up here when Walker Mayfield came? A. Yes sir.
Q. You were born in '54? A. Somewhere there; I wouldn't say positive.
Q. Can you read and write? A. I can read a little.
Q. What year were you married? A. I was married in--the first time, you mean? I was married in '76, I think it was.
Q. How old were you? A. I don't know, I was somewhere along about sixteen or seventeen.
Q. When you were married? A. Somewhere along about that time.
Q. And you were married in '76? A. Yes sir.
Q. And you think you were sixteen or seventeen?
A. When I was married? Yes sir.
Q. Are you positive about when you married? A. You mean about '76? Let me see--Yes, I am, sir.
Q. You are positive about that? A. Yes sir.
Q. It is your best judgment that you were sixteen or seventeen when you were married? A. Well, my best judgment.
Q. Have you some children? A. Yes sir.
Q. When was the first one born? A. The first one was born in 1880,

- Q. When was the next one born? A. It was born in 1852, 18th day of July.
- Q. When were you married the second time? A. I was married the 22nd day of March, '79.
- Q. That was 1879? A. Yes sir.
- Q. Did you have any children by your first wife? A. No sir.
- Q. All your children by your last wife? A. Yes sir.
- Q. Do you now think you were about sixteen or seventeen when you were married? A. Yes sir, that's my best judgment.
- Q. Under oath? A. Yes sir, to the best of my knowledge.
- Q. You have thought over it, and that is your best judgment?
- A. Yes sir.

BY MR. GRAVENS:

- Q. You were about twelve years old when the war closed?
- A. Yes sir, I was about twelve years old.
- Q. And how long after the war before you married the first time?
- A. Well, I married in '76.
- Q. About ten years? A. Well, I married, I will tell you when I married in, I married in '76, the 14th day of August.
- Q. About ten years after the close of the war? And you were about twelve years old at the close of the war?

Mr. Hastings: I object to this witness being led by his attorney.

Objection will be noted?

- Q. You were about twelve years old when the war closed in '66?

Objected to because the question is leading.

- Q. When did the war close with reference to your return to the Cherokee Nation? A. The war closed in '66.
- Q. You were twelve years old, about, when the war closed?

Mr. Hastings: Objected to because the age of this witness is material, and this is leading.

Objection will be noted.

- Q. Were you not mistaken about your age when you were married?
- A. I said to the best of my judgment, that was what.
- Q. May you not be mistaken about that? A. About when I was married?
- Q. About your age at that time? A. I said about, that.
- Q. How much is twelve and ten? A. Twelve and ten is twenty-two.
- Q. Then were you not about twenty-two years old when you were married?

Mr. Hastings: Objected to because the question is clearly leading, as the Attorney knows, and the attorney for the Cherokee Nation moves that it be stricken from the record.

Objection will be noted.

- Q. How long is it between '66 and '78? A. '66 and '78?
Q. How many years? A. Twelve years, I guess, aint it?
Q. In '66, the close of the war, you were twelve years old?
A. About that.
Q. Then in '76 how old were you?
A. That would make me- from '66 to '76, and twelve- that would have been twenty-two.

Objected to because it is leading, and the attorney himself knows is not admissible.

Objection will be noted.

On Behalf of Commissioner:

- Q. Was your brother George born when you came back from Texas?
A. Yes sir.
Q. Did he come back at the same time? A. Yes sir.
Q. Mariah Freeman, is she a daughter of Callis West? A. Yes sir.
Q. Is she a sister of Ada Kilpatrick? A. Mariah who did you say?
Q. Has Ada Kilpatrick a sister named Mariah? A. Yes sir.
Q. What is her full name? A. The last record I had of her, her name was Norman.
Q. Is she elder or younger than Ada? A. Younger.
Q. Are they both children of Callis West? A. Yes sir.
Q. Always recognized? A. Yes sir.
Q. Did you know their mother? A. Yes sir.
Q. Was she a Cherokee citizen? A. No sir.
Q. State woman? A. Yes sir.
Q. Is the only right that Ada and Mariah have through their father, Callis West? A. Yes sir.

CALLIS WEST being duly sworn, testified as follows.

EXAMINATION BY MR. CRAVENS:

- Q: What is your name? A. Callis West.
Q. How old are you? A. I am about fifty-seven.
Q. What is your postoffice? A. Cottenwood.
Q. Are you a brother of Houston West who has just testified?
A. Yes sir.
Q. Where have you lived all your life? A. Down here in Sequoyah District, Cherokee Nation, close to Port Smith
Q. Have you ever lived out of the Cherokee Nation? A. No sir.
Q. Have you ever been out of the Cherokee nation?
A. Yes sir, I have been out time of the war.
Q. Where did you go? A. Down in Texas.
Q. With whom? A. Walker Hayfield.
Q. Your owner? A. Yes sir.
Q. When did you return to the Cherokee Nation?
A. We returned in '66.
Q. With whom? A. Walker Hayfield.
Q. Where did you return to in the Cherokee Nation?

- Q. We come to his old home place, to his bottom farm.
 Q. Where did you first come in the Cherokee nation?
 A. To Lila Starr's, about two miles from the line.
 Q. How long did you stay there? A. Why, we stayed there about, to the best of my knowledge it must have been six or seven weeks.
 Q. About what time of the year was it in '66 you got there?
 A. Right at Christmas.
 Q. Some time in January that you moved Mayfield to his place?
 A. It might have been right about the last of January.
 Q. Was anybody living there? A. Yes sir, one family by the name of Hannah Cline on his bottom place.
 Q. How about his home place? A. George Hughes was living there.
 Q. Do you know Mr. Faulkner? A. Mr. Dave Faulkner?
 Q. I don't know that gentleman that testified here this morning?
 A. Yes sir, I know him.
 Q. Do you remember the fact of his marriage? A. No sir; I know about his marrying a niece of Mayfield's, but I don't know what time it was. It wasn't the time he said it was.
 Q. Do you know Mrs. Pack, who testified here to-day? A. Yes sir.
 Q. On your return to the Cherokee Nation did you see her?
 A. No sir, I never seen her until about two months after.
 Q. You swear positively do you, that you returned to the Cherokee Nation in December 1866, or about Christmas, 1866.? A. Yes sir.
 Q. Who came with you? A. From Texas?
 Q. Yes? Walker Mayfield and his wife, Jerry Mayfield and Wills Mayfield, and Wills Mayfield's wife, and Reddy Taylor, and I believe that is all the white people.
 Q. What negroes? A. My father; that was Henry West, Houston West, Dave west, Tom Harnage, Nancy west, Mary and George West and I believe that's all I know.
 Q. You are the father of A da Kil atrick and Mariah Freeman?
 A. Yes sir.
 Q. They are both living at this time? A. Yes sir.
 Q. You are enrolled as a citizen of the Cherokee Nation? A. Yes sir.
 Q. And approved by the secretary of the Interior? A. yes sir

CROSS-EXAMINATION BY MR. HASTINGS:

- Q. Now you and your father, Henry West, and your brothers and sisters all came back with Walker Mayfield? A. Yes sir.
 Q. And that was the time Walker Mayfield moved his family here after the war? A. Yes sir.
 Q. And Reddy Taylor and Wills Mayfield's family? A. Yes sir.
 Q. And you came to Walker Mayfield's place? A. Came to his bottom farm.
 Q. Did Walker Mayfield continue to live up there until he died?
 A. Up to his home place?
 Q. Up in the Cherokee Nation? A. Yes sir.
 Q. Now your father was named Henry West? A. Yes sir.
 Q. And you came when Walker Mayfield came back here? A. Yes sir.
 Q. When he brought his wife, Jane Mayfield and family? A. Yes sir.

Commissioner:

- Q. Who was Lila Starr? A. She was some of the kin-folks of that Harnage family.
- Q. Was she related to Mayfield? A. Yes sir. Her maiden name was Johnson, but she was a widow woman when I can recollect.
- Q. After you got back into the Cherokee Nation did you camp anywhere? A. We camped right at the slough, right at her house.
- Q. By Lila Starr's? A. Yes sir.
- Q. How long did you stay there? A. Six or seven weeks, because the times was squally when we came here.
- Q. What kind of a country was that? A. Bottom, kind of swampy.
- Q. You camped there five or six weeks? A. Yes sir, or more maybe.
- Q. And then where did you go? A. Up to the bottom farm, but understand me, Mayfield did not go to the bottom farm.
- Q. Where did he go? A. We stayed there a good little bit because we could not get our houses and we were camped there.
- Q. Where was Mayfield? A. He was up at Lila Starr's.
- Q. And you camped there by the schoolhouse? A. Oh no, there wasn't any school house talked about then; there on the slough.
- Q. Do you know where Mr. Faulkner's sister lived?
- A. No, I don't know where she lived, but we wasn't staying round in there.
- Q. How far was Lila Starr's from where Walker Mayfield lived?
- A. About four miles.
- Q. Did he stay there five or six or seven weeks before he moved up to his place? A. Pretty well all the time he stayed right there on the road.
- Q. And he was waiting until his house was vacated? A. Yes sir.

MR. HASTINGS:

- Q. How far was that from the Martin Bell place? A. Which place?
- Q. Lila Starr's place? A. It wasn't over two miles.
- Q. That was where Zeke Harnage lived? A. Yes sir, Zeke was there.
- Q. You know him? A. Yes sir.
- Q. What were you doing there, working? A. No sir, there wasn't any farming then.
- Q. You didn't go down to any of those farms to work? A. No sir.
- Q. There wasn't any fixing of fences or anything of that kind?
- A. No sir.
- Q. You just camped there and didn't do anything? A. No sir, we couldn't do anything. We drew rations; you know we couldn't do anything in them days.

Mr. Cravens:

- Q. Why? A. Why, sir because these Southern Indians and these Pin Indians hadn't come into the Union yet, and we couldn't do anything, them was squally times along there.

DENNIS BEAN being duly sworn by B. P. Ramus, testified as follows:

By. Mr. CRAVENS:

- Q. What is your name? A. Dennis Bean?
- Q. How old are you? A. Forty-seven

- Q. Where do you live? A. Down here close to Fort Smith.
 Q. Are you a citizen of the Cherokee Nation? A. Yes sir.
 Q. Have you got your allotment? A. Yes sir.
 Q. Where have you lived all your life? A. Lived about six miles from Fort Smith.
 Q. All your life? A. Yes sir.
 Q. Ever lived outside the Cherokee nation? A. No sir.
 Q. Do you know Callis West? A. Yes sir.
 Q. Do you know anything about the time he returned to the Cherokee Nation after the war?
 A. If my memory serves me right he came here in the winter of '66.
 Q. Do you know where Lila Starr lived down there after the war?
 A. Yes sir.
 Q. Did you live near where she lived there? A. I lived about a half a mile.
 Q. Now where did they come with reference to that place?
 A. They came up to that place and camped.
 Q. Was that along about Christmas? A. Just before Christmas I think.
 Q. In 1866? A. Yes sir.
 Q. You saw Callis West there did you? A. Yes sir.

CROSS-EXAMINATION BY MR. HASTINGS:

- Q. You were born in '59? A. Yes sir.
 Q. What time of the year of '59? A. In May.
 Q. And you wasn't but seven years old at that time? A. I guess I was.
 Q. Are you married? A. No sir.
 Q. Ever been married? A. Yes sir.
 Q. What year were you married? A. In '88.
 Q. Have you ever been convicted? A. Yes sir.
 Q. How many times? A. Once.
 Q. Ever indicted more than once?
 Mr. Cravens: I object to that question; The record is the best evidence.

Objection will be noted.

- Q. You say you have been indicted lots of times?

MR. Cravens: I object to that.

Objection will be noted.

- Q. What have you been indicted for? A. Oh, carrying a gun, disturbing the peace.
 Q. Anything else? A. No.
 Q. How many more times have you been indicted besides that? Didn't you say you had been indicted lots of times?
 A. That's what I call lots.
 Q. Two times? A. Three times.
 Q. Ever been indicted more than that? A. No sir.

ME 24-439

- Q. Never indicted for anything but disturbing the peace and carrying a gun? A. No sir.
Q. You swear to that? A. I don't swear to that.
Q. You are under oath? A. Yes sir.
Q. Well is that all you have been indicted for? A. Once that I know of.
Q. Well, what else? A. Well, for shooting.
Q. Convicted?

Mr. Gravens: Oh, I object to that. The record is the best evidence.

- Q. Ever indicted for bringing whiskey into the Territory?

I object to that.
Objection will be noted.

- Q. Ever indicted for larceny? A.

I object to that.
Objection will be noted.

- A. No sir.
Q. How many cases have you ever testified in? A. None but this one.
Q. You swear to that? A. This all the one that I recollect of.
Q. You have never testified in a Freedman case before? A. No sir.
Q. This is your first time, except in your own?
A. No, did in this here case before.
Q. Have you ever testified in any other case except this case?
A. No sir.
Q. Are you positive about that? A. Not that I know of.
Q. Well, do you know? A. No, I don't know as I have.
Q. Well, now, do you know whether you have testified or not?
A. Well, I don't know as I have.
Q. Will you swear that you have or that you haven't? A. I don't know as I have.

Mr. Gravens: I object to this method of cross-examination.

Objection will be noted.

- Q. Now, I want an answer; Did you ever testify in any other freedman case except this one? A. No, I have not.
Q. You swear to that positively? A. I don't know as I ever swore in any other case but this.
Q. You know don't you? A. That's what I am telling now.
Q. Now, you swear that you have testified in no other freedman case before the Commission to the Five Civilized Tribes, or the Commissioner, but this one? A. This is the only one I have any recollection of.
Q. Are you the only Dennis Bean that lives in your section of the country? A. No, not the only one.
Q. Is there any other Dennis Bean? A. There are some Beans down there.
Q. Are you the only Dennis Bean, I asked you? A. I wouldn't say that; I am the only one I know of.
Q. Are you the same Dennis Bean that at Fort Gibson, on April 16, 1901, gave some testimony in the matter of Charlotte Lealey's application to be enrolled as a Cherokee citizen?

- A. Yes sir, I had a right to, too.
 Q. Did not you swear just now that you had not testified in any other freedman case? A. I said if I had I didn't know it.
 Q. You testify now that you have? A. Yes sir.
 Q. Did you testify in any other? A. Well, I don't know.
 Q. You don't mean to testify then that you have not testified in other freedman cases? A. I don't know.
 Q. I will ask you if you did not testify on April 15, 1901, in the case of Annie Franklin? A. Annie Franklin? Yes sir.

Mr. Hastings: I haven't time to look up the rest of the records.

- Q. Did you testify in any other cases? A. No sir.
 Q. Do you know now, did you or didn't you? A. I know I testified in them two.
 Q. Did you testify in any others? A. Yes sir.
 Q. What others? A. Lula White.
 Q. Any other? A. Some woman from Hot Springs, I don't know who she was.
 Q. You were born in '89? A. Yes sir.
 Q. What was your father's name? A. Samuel Bean.
 Q. Who did you live with down near Fort Smith after the war?
 A. With Minerva Thornton.
 Q. You had no particular reason for knowing when these people returned? A. Yes sir.
 Q. They are not related to you are they? A. No sir.
 Q. You have no record to go by? A. Nothing only '66.
 Q. That's all the record you have? A. Yes sir.
 Q. That's a good enough record? A. Yes sir, that was the cry of every man that crossed the river then.
 Q. You know it was the cry over the country? A. Yes sir.
 Q. And that's the way you fix it? A. Yes sir.

MR. CRAVENS, of Counsel for the Applicants:

If the Commissioner please, I move that all of the testimony regarding the time of the return of Walker Mayfield to the Cherokee Nation be stricken from the records in this case, for the reason that the fact is immaterial and irrelevant to the claim of the applicants herein, and for the further reason that Callis West has been enrolled by this Commission, and his enrollment approved by the Secretary of the Interior, and his case closed, and the rights of the applicants herein depend solely upon the rights of their father, Callis West.

MR. HASTINGS, Attorney for Cherokee Nation:

In reply to the motion and remarks made by Counsel for the Applicants, the representative of the Cherokee Nation desires to say that it is claimed on behalf and by the freedmen themselves that Callis West, through whom Ada Kilpatrick et al., claim their right to enrollment, belonged to Walker Mayfield prior to the war,

and that their father, Callis West, and grandfather, Henry West, returned to the Cherokee Nation after the war with their former owner, Walker Mayfield, and therefore it is material to know the exact date of the return of the said Walker Mayfield, and the testimony has been introduced on behalf of the Cherokee Nation to-day for the purpose of shewing, beyond any question, as conclusively as human testimony can show, the time of the return of Walker Mayfield to the Cherokee Nation, after the Civil War, it being the same time that the father of these applicants claims to have returned to the Cherokee Nation.

In reply to the second objection, namely, that the father of these applicants has been enrolled and his name placed upon a roll approved by the Secretary of the Interior, we desire to urge that two wrongs never made a right, and that if error has been made in the enrollment of Callis West, father of the applicants, that it does not justify the Commissioner in the continued error in enrolling the present applicants, and we desire, further, to state in this connection, that the Cherokee Nation has filed a motion to reopen the case of Callis West, and the companion cases, and that that motion is now pending, and that, therefore, the enrollment of Callis West upon the approved roll by the Secretary of the Interior, is not final, but that this motion to reopen was filed within the time prescribed by the Act of Congress approved April 26, 1906 (Public No. 129), and that therefore there is no final enrollment of Callis West, father of the present applicants.

COMMISSIONER: The motion and reply will receive due consideration.

CASE CLOSED.

Lucy M. Bowman, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes she correctly recorded the proceedings had in the above entitled cause, and that the above and foregoing is a full, true and correct transcript of her stenographic notes thereof.

Lucy M. Bowman

Subscribed and sworn to before me this 27th day of October, 1906.

B. P. Rasmus

Notary Public

CHB

Cherokee M.M.24.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Ada Kilpatrick, et al., as Cherokee freedmen.

D E C I S I O N

THE RECORDS OF THIS OFFICE SHOW: That on September 28, 1905, at Muskogee, Indian Territory, Ada Kilpatrick appeared before the Commissioner to the Five Civilized Tribes, and made application for the enrollment of herself and minor children, Ivy, Warren and Easter Kilpatrick, and for the enrollment of her sister, Mariah Freeman, as Cherokee freedmen. Further proceedings in the matter of said application were had at Muskogee, Indian Territory, September 28 and October 18, 1906. The records further show that the principal applicants herein, Ada Kilpatrick and Mariah Freeman, are children of one Callis West (son of Henry West), whose application for enrollment as a Cherokee freedman was, among others, denied by the Commission to the Five Civilized Tribes by its decision rendered August 5, 1904, which decision was, on October 16, 1904 (I.T.D.7604-1904), reversed by the Secretary of the Interior, and the said Callis West, among others, ordered enrolled as a Cherokee freedman; and that thereafter his name was included in a partial roll of freedmen citizens of the Cherokee Nation approved by the Secretary of the Interior April 19, 1905, opposite No. 3876.

THE EVIDENCE IN THIS CASE SHOWS: That the principal applicants herein, Ada Kilpatrick and Mariah Freeman, were born since 1866, and neither claim nor possess any right to enrollment as Cherokee freedmen other than as descendants of the said Callis West; that the said Callis West was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the progress of said rebellion he left the Cherokee Nation, and did not return thereto and establish a residence therein until April, 1867; that said Callis West returned to the Cherokee Nation after the close of the said rebellion with his father, the said Henry West; that said Henry West made application to the Daniels Court, or Commission, for admission to freedman citizenship in the Cherokee Nation in 1871, and that the decision of said Court was adverse to said claimant; that thereafter, in the year 1878, said Henry West made application for admission to freedman citizenship in the Cherokee Nation to the Chambers Court, or Commission on Cherokee citizenship; that the decree of said Court was adverse to said claimant; and that during the same year said Court adjudged

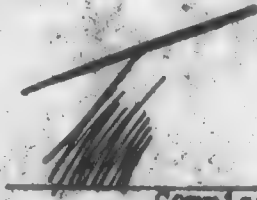
said claimant an intruder in the Cherokee Nation and therein without authority, he having acquired no rights in the Cherokee Nation under the Treaty of 1866. On October 5, 1906 (I.T.D. 7658-1904), the Honorable Frank L. Campbell, Assistant Attorney General, held, in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, as follows:

"The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the United States Courts under the Act of June 10, 1896 (29 Stat. 321-339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When reopened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years."

It is considered that, following the ruling of the Department in the cases of Harry Still (I.T.D. 7658-1904, 13208-1905); of John and Cynthia Morgan (I.T.D. 7235-1905, 8896-1905, 10716-1905); and of Amos Adair, et al. (I.T.D. 15372-1906), it was upon the principal applicants herein, Ada Kilpatrick and Mariah Freeman, to show that the decision of the "Daniels Court" denying their said grandfather, Henry West, with whom their father, Callis West, returned to the Cherokee Nation after the war of the rebellion, the right to citizenship in the Cherokee Nation was vitiated by fraud or, from lack of evidence then available, was clearly wrong, and that in this they have wholly failed; and that the evidence in this case shows that the said Callis West did not return to the Cherokee Nation after the close of the war of the rebellion and establish an actual personal, bona fide residence therein within the time prescribed in the decree of the Court of Claims rendered February 23, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation et al., and as provided by Section three, of the Act of Congress approved April 26, 1906 (34 Stat., 137), for the return of freedmen to the Cherokee Nation.

The evidence further shows that the minor applicants herein, Ivy, Warren and Baster Kilpatrick, are children of the said Ada Kilpatrick; that they were born since 1880, and possess no rights to enrollment as Cherokee freedmen not possessed by their said mother. None of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1880.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That under the provisions of Section twenty-one, of the Act of Congress approved June 28, 1896 (30 Stat, 496), Ada Kilpatrick, Ivy Kilpatrick, Warren Kilpatrick, Raster Kilpatrick, and Mariah Freeman are not entitled to enrollment as Cherokee freedmen, and their application for enrollment as such is accordingly denied.



Commissioner.

Dated at Muskogee, Indian Territory,
this JAN 9 1907

Cherokee W. M.

Muskogee, Indian Territory, October 9, 1905.

Neal & London,

Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith copy of supplemental testimony of September 28, 1905, in the matter of the alleged application for enrollment, as Cherokee freedmen, of Ada Kilpatrick, et al., together with receipt for same which you are requested to sign and return to this office.

Respectfully,

Incl. S-84

Commissioner.

Muskogee, Indian Territory, September 6, 1906

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment as Cherokee freedmen of Ada Kilpatrick et al., you are advised that Ada Kilpatrick and Mariah Freeman have this day been notified that they will be permitted to appear before the Commissioner to the Five Civilized Tribes at his office in Muskogee, Indian Territory, at nine o'clock A. M., on Friday, September 28, 1906, and introduce further testimony in said case.

The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in said case.

Respectfully,

L M B

Acting Commissioner

Muskogee, Indian Territory, September 6, 1906

Neal & London,

Attorneys for Ada Kilpatrick, et al.

Fort Smith, Arkansas.

Gentlemen:

In the matter of the application for the enrollment of Ada Kilpatrick et al., as Cherokee freedmen, you are advised that Ada Kilpatrick and Mariah Freeman have this day been notified that they will be permitted to appear before the Commissioner to the Five Civilized Tribes at his office in Muskogee, Indian Territory, at nine o'clock A. M. on Friday, September 28, 1906, and introduce further testimony in said case.

The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in said case.

Respectfully,

L M B

Acting Commissioner

Muskogee, Indian Territory, September 6, 1906

Ada Kilpatrick,

galliaaw, Indian Territory.

Dear Madam:

The records of this office show that you appeared before the Commissioner to the Five Civilized Tribes and made application for the enrollment of yourself and others as Cherokee freedmen. You are advised that in order to definitely determine your rights to enrollment as Cherokee freedmen it will be necessary that further testimony be introduced, showing what right, if any, you have to such enrollment.

You are advised that you and your sister, Mariah Freeman, will be permitted to appear before the Commissioner to the Five Civilized Tribes at his office in Muskogee, Indian Territory, at nine o'clock, A.M., on Friday, September 28, 1906, and introduce further testimony in your case.

The Cherokee Nation will also be permitted to appear on that date and introduce such testimony as it desires in said case.

Respectfully,

L M B

Acting Commissioner

Cherokee
H. M. 24

Muskogee, Indian Territory, November 2, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There are enclosed herewith copies of the testimony of September 28, and October 18, 1906, had in the matter of the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen.

Respectfully,

Encl. H. J. - 30
H. J. C.

Commissioner.

Cherokee
M.M. 24

Muskegee, Indian Territory, November 3, 1906.

Neal & London,

c/o W. S. Wolfenberger,

Muskegee, Indian Territory.

Gentlemen:

There are enclosed herewith copies of the testimony of September 28, and October 18, 1906, had in the matter of the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen.

Respectfully,

Encl. H.J.-31.
H.J.C.

Commissioner.

Cherokee N.

M M 24.

Muskogee, Indian Territory, January 9, 1907.

Ada Kilpatrick, .

Sallisaw, Indian Territory.

Dear Madam:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, denying your application for the enrollment of yourself and children, and for the enrollment of your sister, Mariah Freeman, as Cherokee freedmen. Your attorneys have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. N-127
JMH

Commissioner.

Register.

Cherokee D.
N M 24.

Muskogee, Indian Territory, January 9, 1907.

Neal & London,

Attorneys for Ada Kilpatrick, et al.,

Fort Smith, Arkansas.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, denying the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl. H-125
JMH

Commissioner.

Cherokee N.
M N 24.

Muskogee, Indian Territory, January 9, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, denying the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Encl.H-126
JMH.

Commissioner.

Muskogee, Indian Territory, January 9, 1907

Special.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a decision of the Commissioner to the Five Civilized Tribes dated January 9, 1907, rejecting the application for the enrollment of Ada Kilpatrick, Ivy Kilpatrick, Warren Kilpatrick, Easter Kilpatrick and Mariah Freeman, as Cherokee Freedmen, together with the record of proceedings had in the case.

The principal applicants in this case, Ada Kilpatrick and Mariah Freeman, are children of Callis West, son of Henry West, and the name of Callis West appears upon a partial roll of Cherokee freedmen approved by the Secretary of the Interior April 19, 1905, opposite Number 3876. In connection with this case the Department's attention is called to this office's report of September 28, 1906, transmitting a motion by the Attorney for the Cherokee Nation to review the Cherokee freedman case of Callis West, father of Ada Kilpatrick and Mariah Freeman, and other

Secretary-2

cases with which the case of Callis West was consolidated.

This office on that date recommended that the Nation's motion for a review be granted, and that the consolidated case of Houston West, et al., including the case of Callis West, in which the Department, on October 15, 1904 (I.T.D. 7604-1904), reversed the decision of the Commission to the Five Civilized Tribes adverse to the applicants, and ordered their enrollment as Cherokee freedmen. The proceedings had in the West cases, and the status of the land for which the applicants in said case have applied to take as allotments, were set out fully in this office's report of September 28, 1906.

The applicants in the case herewith transmitted possess no rights to enrollment as Cherokee freedmen other than as descendants of said Callis West. The record in the case seems to show beyond any doubt, that Callis West and the other principal applicants embraced in the Cherokee freedmen case of Houston West et al., did not return to the Cherokee Nation within the time required to entitle them to Cherokee freedman citizenship.

It is suggested that the Department consider

Secretary-98

the record in the case herewith transmitted in connection with the Nation's motion for a review of the West case.

In view of the record in this case it is respectfully recommended that the Department reverse its said decision of October 18, 1904, favorable to the applicants in the case of Houston West et al., and that the applicants in that case be denied enrollment as Cherokee freedmen.

Respectfully,

Through the

Commissioner of Indian Affairs.

Encl. B-28

Commissioner

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land.
3853-1907.

WASHINGTON.

February 26, 1907.

(COPY)-

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to submit herewith a communication from the Commissioner to the Five Civilized Tribes, dated January 9, 1907, transmitting the decision of the Commissioner dated January 9, 1907, rejecting the application for the enrollment of Ada Kilpatrick and Ivy Kilpatrick, Warren Kilpatrick, Easter Kilpatrick and Mariah Freeman, as Cherokee freedmen together with the record of proceedings had in the matter.

The record shows that the application was made on September 28, 1905, for the enrollment of Ada Kilpatrick and her minor children, Ivy, Warren and Easter Kilpatrick, and for the enrollment of her sister, Mariah Freeman, as Cherokee freedmen.

Testimony was taken in the matter on September 28, and October 18, 1906. It further appears that the principal applicants herein, Ada Kilpatrick and Mariah Freeman are the children of Callis West, son of Henry West, whose application for enrollment as a Cherokee freedman was denied by the Commission to the Five Civilized Tribes in its decision rendered August 5, 1904, and was reversed on October 15, 1904 (I.T.D. 7604-1904), by the Department, and Callis West, among others, ordered enrolled as a Cherokee freedman, and his name thereafter was included on

a partial roll of Cherokee freedmen citizens approved April 19, 1905, opposite No. 3876.

- It is shown by the evidence that the principal applicants herein were born since 1866, and neither claim nor possess any right to enrollment as Cherokee freedmen other than as descendants of Callis West. It appears that Callis West was the slave of a Cherokee citizen at the beginning of the Civil War; that during the progress of the War, he left the Cherokee Nation and did not return thereto and establish a residence therein until April, 1867; that he returned to the Cherokee Nation after the close of the War with his father, Henry West, and that Henry West, made application to the Daniels Court for admission to freedmen citizenship in the Cherokee Nation in 1871, and the decision of that Court was adverse to his claim. Thereafter, in the year 1878 Henry West made further application for admission to freedmen citizenship in the Cherokee Nation to the Chambers Court; that the decree of this Court was adverse to his claim, and that during the same year this Court adjudged him an intruder in the Cherokee Nation and therein without authority, he having acquired no rights in the Cherokee Nation, under and by virtue of the treaty of 1866. On October 5, 1905 (I.T.D.7658-1904), the Assistant Attorney General for the Interior Department held in the matter of the application for the enrollment of Harry Still as a Cherokee freedman, as follows:

The adjudication of the Supreme Court of the Cherokee Nation, upon the authorities above cited, has therefore the same effect as the adjudication of similar cases by the

United States Courts under the Act of June 10, 1896 (29 Stat. 321-339), and is entitled to all the respect of a judicial determination of the facts necessarily determined. When re-opened to inquiry upon the facts, such adjudication is to be considered by the Commission as evidence of great cogency, to be followed unless it appear that fraud was practiced upon the Court, or that the evidence then before the Court, and that now available before the Commission show that the conclusion of the Court upon the case, for fraud or lack of evidence then available, was clearly wrong. The Commission should regard itself rather as a Court reviewing the case as upon a petition for a new trial than as exercising an original jurisdiction, and ought not to overturn the finding made after the impairment and loss of available evidence by the lapse of more than thirty years.

It is considered that following the ruling of the Department in the cases of Harry Still (I.T.D. 7658-1904, 13208-1905); of John and Cynthia Morgan (I.T.D. 7235-1905, 8896-1905, 10716-1905); and of Amos Adair, et al. (I.T.D. 15372-1906), it was upon the principal applicants herein, Ada Kilpatrick and Mariah Freeman, to show that the decision of the "Daniels Court" denying their said grandfather, Henry West, with whom their father, Callis West, returned to the Cherokee Nation after the war of the Rebellion, the right to citizenship in the Cherokee Nation was vitiated by fraud or, from lack of evidence then available, was clearly wrong, and that in this they have wholly failed; and that the evidence in this case shows that the said Callis West did not return to the Cherokee Nation after the close of the war of the Rebellion and establish an actual personal, bona fide residence therein within the time prescribed in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation, et al., and as provided by Section three of the Act of Congress approved April 26, 1906 (34 Stat. L., 137), for the return

of freedmen to the Cherokee Nation.

The evidence further shows that the minor applicants herein, Ivy, Warren and Easter Kilpatrick, are children of the said Ada Kilpatrick; that they were born since 1880, and possess no rights to enrollment as Cherokee freedmen not possessed by their said mother. None of the applicants herein can be identified on the Cherokee authenticated tribal roll of 1880.

The Office is of the opinion that under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat.L., 495), the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, denying the application for the enrollment of Ada Kilpatrick, Ivy Kilpatrick, Warren Kilpatrick, Easter Kilpatrick, and Mariah Freeman, is correct, and it is recommended that it be affirmed, in the event the Department rescinds its decision of October 15, 1904, favorable to the applicants in the case of Houston West, et al., and denies them enrollment as Cherokee freedmen. In the event that Callis West is enrolled as a Cherokee freedman, it follows that the applicants are likewise entitled to be enrolled.

The record in the consolidated Cherokee freedman case of Houston West, et al., was transmitted to the Department in Office letter of October 29, 1906 (Land 100307-1905, 49765, 66139-1906).

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

IVE--SD.

SPECIAL.
DEPARTMENT OF THE INTERIOR, LLB.
WASHINGTON.

D.C.13027-1907.
I.T.D.5556-1907.

March 4, 1907.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 26, 1907 (Land 3853), the Indian Office transmitted your report dated January 9, 1907, in the matter of the application for the enrollment of Ada Kilpatrick et al. as Cherokee freedmen, together with your decision of the same date, adverse to said applicants.

It appears that the principal applicants in this case are children of Callis West, whose name appears upon a partial roll of Cherokee freedmen approved by the Secretary of the Interior April 19, 1905.

You recommend that the Department reverse its decision of October 15, 1904, favorable to the applicants in the case of Houston West et al., and that the applicants in that case be denied enrollment as Cherokee freedmen.

On September 28, 1906, you transmitted a motion for review filed by the attorney for the Cherokee Nation, in the matter of the application of Houston West et al., including Callis West. In said letter of transmittal you stated that your office con-

siders that before any action adverse to the applicants is taken they should be given a further opportunity to be heard.

On February 12, 1907, the Department in view of section 2 of the act of April 26, 1906 (34 Stat., 137), refused to order a rehearing at that late date, and accordingly denied the motion for review.

It appears that your decision in the case of Ada Kilpatrick et al. is based upon an opinion of the Assistant Attorney-General in the case of Harry Still, the effect of which is materially modified by the opinion of the Assistant Attorney-General in the John Baldrige case dated February 9, 1907.

The Department, in view of your recommendation that a further hearing should be held in the case of Houston West before action adverse to the applicants is taken, does not feel warranted in reversing said case. As the Department will not recede from its decision in the Houston West case, and it is shown that the applicants in this case are descendants of Houston West your decision dated January 9, 1907, is hereby reversed, and you are instructed to enroll Ada Kilpatrick, Ivy Kilpatrick, Warren Kilpatrick, Easter Kilpatrick, and Mariah Freeman as Cherokee freedmen.

A copy of Indian Office letter is inclosed.

The papers in the case, together with those in the Houston

West case, also a carbon copy hereof, have been sent to the Indian Office.

Respectfully,

(Signed) Thos. Ryan,

Acting Secretary.

1 ins. and 20 to Ind. Of.

A. F. Mc.
3-4-07.

Cherokee
M M 24.

COPY

Waskogee, Indian Territory, March 22, 1907.

Ada Kilpatrick,

Sallisaw, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 2, 1907, rejecting the application for the enrollment of yourself and children, Ivy, Warren and Easter Kilpatrick, and sister Mariah Freeman as Cherokee freedmen, was reversed by the Department March 4, 1907, and said application granted.

Respectfully,

HJC

SIGNED *Wams Dixby.*
Commissioner.

Cherokee
M M 24.

COPY

Muskogee, Indian Territory, March 22, 1907:

Neal & London,

Attorneys for Ada Kilpatrick, et al.,
Fort Smith, Arkansas,

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, rejecting the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen was reversed by the Department, March 4, 1907, and said applications granted.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl. HJ-87.
HJC

SIGNED *James H. Hays*

Commissioner.

Cherokee
M M 24.

COPY

Muskogee, Indian Territory, March 22, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated January 9, 1907, rejecting the application for the enrollment of Ada Kilpatrick, et al., as Cherokee freedmen was reversed by the Department, March 4, 1907, and said applications granted.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Bixby*.

Encl. HJ-86.
HJC

Commis ~~_____~~

D.C.27556-1907.

I.T.
47945-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAV

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 17, 1907, the Department denied motion to reconsider, review and reverse Departmental decision in the matter of the application of Ada Kilpatrick for enrollment as a Cherokee freedman. You are requested to advise Ada Kilpatrick of the Department's action.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAV-GH.

Oherokee F 1566.

Muskogee, Indian Territory, June 8, 1907.

Ada Kilpatrick,

Ballisaw, Indian Territory.

Dear Madam:

You are advised that the motion of the Attorney For the Oherokee Nation to reconsider, review and reverse Departmental decision in the matter of the application for the enrollment of yourself and children as Oherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl. W-27.
S.W.

Acting Commissioner.

Cherokee W 1566

Maskogee, Indian Territory, June 6, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Maskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental decision in the matter of the application for the enrollment of Ada Kilpatrick and children as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl. W-26.
S.W.

Acting Commissioner.

Cher Fr 1567

Trans. from M.M. 24

Cher Fr 1567

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Moses Riley et al., as Cherokee Freedmen, consolidating the
applications of:

Moses Riley et al.,	Cherokee Freedmen	D	258
Andrew Riley et al.,	Cherokee Freedmen	D	260
Jesse Riley et al.,	Cherokee Freedmen	D	261
Frank Riley et al.,	Cherokee Freedmen	D	262
Jerry Riley et al.,	Cherokee Freedmen	D	263
Fannie Scott et al.,	Cherokee Freedmen	D	266
Delilah Johnson et al.,	Cherokee Freedmen	D	267
Lettie Johnson et al.,	Cherokee Freedmen	D	268
Jane Riley	Cherokee Freedmen	D	600
Daniel Thompson	Cherokee Freedmen	D	606
Elick Ward et al.,	Cherokee Freedmen	D	623
Sandy Thompson	Cherokee Freedmen	D	693
Ruth Riley et al.,	Cherokee Freedmen	D	579
Hannah Riley	Cherokee Freedmen	D	569
Charles Landrum	Cherokee Freedmen	D	601
Bettie McIntosh	Cherokee Freedmen	D	903
William Riley	Cherokee Freedmen	D	603
Carrie Gibson	Cherokee Freedmen	D	704
Cora J. Wagener et al.,	Cherokee Freedmen	D	570
Arthur Riley	Cherokee Freedmen	D	571
Elizabeth Melton et al.,	Cherokee Freedmen	D	441
Julius Curls	Cherokee Freedmen	D	269
Riley Curls et al.,	Cherokee Freedmen	D	270
Ophelia Thompson et al.,	Cherokee Freedmen	D	271
Mollie Townsend et al.,	Cherokee Freedmen	D	651
Ema Purtle	Cherokee Freedmen	R	556
Ellen Bean	Cherokee Freedmen	R	674
Walter Vann et al.,	Cherokee Freedmen	R	675
Frank Vann et al.,	Cherokee Freedmen	R	302

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and minor child, Nathaniel Riley; by Jesse Riley for himself and minor children, Joseph, Ollie, Viola, Mabel, Kinora, Idaller and Luther D. Riley; by Frank Riley for himself and minor children, Lettie, Fannie, James, Ralph,

Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth on November 30, 1901, of Earl E. Riley, child of the applicant, Frank Riley, and on June 26, 1902 there was filed with the Commission an affidavit showing the birth on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant, Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Klick Ward for himself, his wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant, Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth on August 24, 1901, of Oval Wagoner, child of the applicant, Cora J. Wagoner; by Arthur Riley for himself; by Elisabeth Melton for herself and minor child, Elnera Melton; by Julius Curls for himself; by Riley Curls for himself and minor children, Willie, Edward, James, George, Stephenia and Clarence Curls; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 13, 1902, of Beatrice Curls, child of the applicant, Riley Curls; by Ophelia Thompson for herself and minor children, Alpha, Libbie, Hirschel, Harvey and Clyde Thompson; by Mellie Townsend for herself and minor children, Rosa, George, Arthur and Ethel Thompson; by Emma Purtle for herself; by Ellen Bean for herself; by Walter Vann for himself and minor child, Waneta Vann; by Jesse Vann for himself and minor children, Frank, Riley and Lovat Vann. As the application of Jesse Vann has been differently classified, his right to enrollment will not be considered in this decision.

The records further show that on October 13, 1905 the Commissioner to the Five Civilized Tribes rendered his decision herein, denying, among others, all of the above mentioned applicants, except Emma Purtle, Ellen Bean and Walter, Waneta, Frank, Riley and Lovat Vann, the right to enrollment as Cherokee freedmen, which decision was duly forwarded to the Department, and thereafter, on July 9, 1906 (I.T.D. 17884-1906), said case was remanded to the Commissioner for rehearing and readjudication; that on July 23, 1904, the Commission to the Five Civilized Tribes rendered its decision rejecting the applications for the enrollment of Emma Purtle, Ellen Bean, and Walter and Waneta Vann as Cherokee freedmen; that said decision was, on November 12, 1904, (I.T.D. 8594-1904), duly affirmed by the Department. Thereafter, on September 18, 1906, the Department res-

cinded its said decision of November 12, 1904, and remanded said case to the Commissioner to be consolidated with the Cherokee freedmen cases of Moses Riley et al., and to be readjudicated with the same; and that, on July 10, 1903, the Commission to the Five Civilized Tribes rendered its decision rejecting, among others, the application for the enrollment of Frank Riley, and Levat Vann as Cherokee freedmen; that said decision was, on May 11, 1904 (I.T.D. 2412-1904), duly affirmed by the Department, and that thereafter, on October 12, 1906 (I.T.D. 12379-1906), the Department directed that the rights of these children to enrollment as Cherokee freedmen be adjudicated in connection with the case of their alleged mother, the said Emma Purtle.

Further proceedings were had in this consolidated case at Garnett, Kansas, October 26, 1906, and at Muskogee, Indian Territory, December 7, 8, 10, 11 and 12, 1906. December 12, 1906; the Commissioner ordered that the cases of Daniel Thompson, D 606, Ellick Ward et al. D 623, and Sandy Thompson, D 693, be separated from the consolidated case of Moses Riley et al. The applicants in these three cases have several times been notified to appear and introduce testimony showing their right to enrollment as Cherokee freedmen, but have failed to do so. There is filed herewith and made a part of the record herein a letter from Messrs. Starr & Patten, attorneys representing a majority of the applicants included in this case, dated January 17, 1907, referring to the three cases mentioned and stating that they "are unable to do anything with the case from the applicants' standpoint" and that "we will have no testimony to introduce in the case". The Commissioner's order of December 12, 1906, separating these three cases from the consolidated case of Moses Riley et al., is therefore hereby set aside.

Since this case was remanded to the Commissioner there have been filed herewith and made a part of the record herein, the following documents:

A certified copy of a marriage license issued on June 24, 1893, by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing the marriage of Thos. E. Allen and Millie McNair.

A certified copy of the "indictment, trial and judgement of the Court and Jury" in the case of Riley Curls et al. in the United States District Court for the Western District of Arkansas, Fort Smith Division;

A certificate by the Clerk of Anderson County, Kansas, relative to whether the names of certain of the applicants herein appear upon the assessment records of Monroe Township, Anderson County, Kansas, during the years 1867, 1868 and 1869;

Six permits issued by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing Jerry McNair, or Riley, to employ certain persons;

An application made by Lewis Whitmire to the Chambers Court of the Cherokee Nation, on June 26, 1878, for Cherokee citizenship;

A certified copy of an Act of the Cherokee National Council approved October 12, 1866, relative to the repeal of certain confiscation acts permitting Southern Cherokees to repossess themselves of their homes and effects December 1, 1866;

THE EVIDENCE IN THIS CASE SHOWS: That Samuel Riley, or McNair, and Maria Riley, or McNair, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Emma Purtle, Fannie Scott, Delilah Johnson, Lottie Johnson and Millie Riley, or McNair, deceased; that the said Riley, Maria, and Millie McNair, all deceased, and the applicants, Moses, Andrew, Jesse and Jerry Riley, Emma Purtle, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Elick and Amanda Ward, and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the war of the rebellion, and that they were taken from the Cherokee Nation during said rebellion.

Since the case was remanded to the Commissioner for further proceedings no additional evidence has been submitted showing whether or not Jane Riley returned to the Cherokee Nation within the time limited by the treaty of 1866, or to show that she possesses any right whatever to Cherokee freedman citizenship.

The applicant, Ruth Riley, was born since 1866, is a daughter of Henry Thornton, deceased, and Katie Thornton, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, but after ample opportunity having been afforded, the applicant has wholly failed to establish by satisfactory evidence that her said parents complied with the provisions of the Treaty of 1866, or to show that she possesses any right whatever to enrollment as a Cherokee freedman.

It is not shown, nor does it appear that it is claimed that Hannah Riley possesses any right whatever to Cherokee freedman citizenship.

The evidence in the case shows that Harrison Johnson, deceased, father of the minor applicants, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson, and Jane Riley, Daniel Thompson, Elick and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, and Columbus Rogers, deceased, did not return to the Cherokee Nation after the war of the rebellion and establish an actual personal, bona fide residence therein as provided by Section three of the Act of Congress approved April 26, 1906 (34 Stat. 137).

The applicants, Lillie, Nathaniel, Joseph, Ollie, Viola, Mabel, Elnera, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E. (in C.F.D. 624 the Commission to the Five Civilized Tribes found that Mary Riley, mother of the seven last named children, was not entitled to enrollment as a Cherokee freedman, and its finding was affirmed by the Department October 31, 1904- (I.T.D. 8138-1904), Clarence, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola,

Della, Ella, Harrison, Rebecca, Luford, Wilbert and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. and Oval Wagener, Arthur Riley, Elizabeth and Elnera Melton, Julius Riley, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curls, Ophelia, Alpha, Libbie, Hirschel, Harvey and Clyde Thompson, were born since the commencement of the war of the rebellion and possess no right to Cherokee freedman citizenship other than as descendants of the said Samuel and Maria Riley, deceased, and Moses Riley, Jesse and Jerry Riley, Fannie Scott, Lettie Johnson, Millie Riley, deceased, Jane Riley, Daniel Thompson, Eliak and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, Harrison Johnson, deceased, Columbus Rogers, deceased, Ruth Riley and Hannah Riley.

The Commissioner to the Five Civilized Tribes on February 23, 1907, rendered his decision rejecting the application of Jesse Kann, father of the applicants, Mollie Townsend, Ellen Bean, Walter Vann and Frank Riley, and Levat Vann, for enrollment as a Cherokee freedman. It is therefore considered that the applicants, Mollie, Rosa, George, Arthur and Ethel Townsend, Ellen Bean, Walter, Vaneta, Frank, Riley and Levat Vann, who were born since 1866, possess no right to enrollment as Cherokee freedmen other than as descendants of their mother and grand-mother, the said Emma Purtle.

The only question remaining to be decided in this case is:

Did Samuel Riley, or McNair, and his wife, Maria Riley, and their children herein named, who were born at that time, return to the Cherokee Nation after the close of the war of the rebellion, within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship?

Since this consolidated case was remanded to the Commissioner there have been introduced on both sides of the case, forty-seven witnesses, whose testimony is exceedingly contradictory.

The applicants claim that Samuel Riley came to the Cherokee Nation in the spring of 1866; that he raised a crop of corn on the place of Jack and Susannah McNair, his former owners; that he remained in the Cherokee Nation during the summer of 1866; then returned to the State of Kansas, and in the fall of 1866 brought his family, including the said Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah Johnson, Lettie Johnson and Emma Purtle, directly to, and settled on the Jack and Susannah McNair place, where they continued to reside during the years 1867 and 1868.

The evidence shows that Millie Riley, deceased, a daughter of said Samuel and Maria Riley, and mother of the applicants, Julius, and Riley Curls and Ophelia Thompson, and grandmother of the minor applicants, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curls, and Alpha, Libbie, Hirschel, Harvey and Clyde Thompson, returned to the Cherokee Nation at a later date than the other members of her said family.

The testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the Jack and Susannah McNair place by any member or members of this Riley or McNair family in 1866, and that none of said family were on that place after the war of the rebellion earlier than, possibly, May, 1867.

The testimony introduced on behalf of the applicants to the effect that when the Riley family left the State of Kansas they went direct to the said Jack and Susannah McNair place in the Cherokee Nation, is uncontradicted. William Spriggs, who testified in the case at Garnett, Kansas, October 26, 1906, on behalf of the applicants, and on whose testimony it appears the applicants so much rely, states that this family left his place for the Cherokee Nation in the fall of 1866, but in an affidavit executed by him August 25, 1905, before a Notary Public, which affidavit is copied into and made a part of the record in this case, he states, in reply to the question - "How did he (meaning Samuel Riley, or McNair) come to leave your farm?" that "Congress had passed an Act giving the freedmen an interest with the Indians in the lands in the Cherokee Nation, provided they were there by a time specified in the Act, and I informed him of the passage of the Act and advised him to return in time to obtain that interest, and he left for that purpose."

There is in the possession of this office a Roll of the Cherokee People, made from a census taken in 1867, which roll was made under authority of Section twelve, Treaty of 1866, for the purpose of ascertaining the number of Cherokee citizens in order that the representation of the Cherokee Nation in the General Council provided for by said treaty might be properly apportioned.

Section 12 of said Treaty reads in part as follows:

"After the ratification of this Treaty, and as soon as may be deemed practicable by the Secretary of the Interior, and prior to the first session of said council, a census or enumeration of each tribe lawfully resident in said (Indian) Territory shall be taken under the direction of the Commissioner of Indian Affairs, who, for that purpose, is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior and paid by the United States."

Under authority of this provision the Commissioner of Indian Affairs appointed one W. Tompkins to take the census of the Cherokee Tribe. In taking this census Mr. Tompkins followed the political divisions of the Cherokee Nation. The roll made from this census is contained in four substantial well preserved volumes, the names of the Cherokee citizens, at that time, appearing in their respective districts, said districts being divided in four volumes, as follows, to-wit:

Going Snake and Delaware Districts	Volume 1
Tahlequah and Saline Districts	Volume 2
Canadian and Delaware Districts	Volume 3
Flint, Sequoyah and Koo-wees-koo-wee Districts	Volume 4.

The citizens of the Cherokee Nation were classified by the census taker under four heads, namely: Indians, Whites, Halfbreeds and Colored. In his recapitulation of the census taken, Mr. Tompkins found there were 13866 Cherokee citizens residing in their nation, divided under the foregoing heads, as follows: Indians, 9588,

Whites, 47, Halfbreeds, 2650, and Colored, 1261. The certificate of the census taker is found on the last page of Volume 4, and reads as follows, to-wit:

"I certify that the foregoing is a true and correct census or enumeration of the Cherokee Indians residing in their Nation:- taken in obedience to your appointment per telegram dated June 10, 1867, and instructions dated July 1, 1867, and in accordance with the provisions of Article 12th, Section 1st of a treaty made with the Cherokee Nation dated July 19, 1866.

W. Tompkins,
Special U. S. Commissioner to take census of Cherokee Indians".

This roll is considered reliable for the reason that the census from which it was made was taken by disinterested parties and for a purpose that makes it highly improbable that any reason existed for placing on said roll the name of any person not entitled or excluding therefrom the name of any person entitled to citizenship in the Cherokee Nation. The question as to whether or not these claiming under Article 9 of the Treaty of 1866 had complied with the provisions thereof was, at that time, easily determined, especially so as to the date of return, inasmuch as this census was taken only a few months after the time limited by said Article 9 of the Treaty for the return of Cherokee freedmen, had expired.

An examination of the roll fails to show the names of any of the above named applicants, or of any of the aforementioned deceased ancestors, enumerated thereon.

It is therefore considered, in view of the record in this case and of the fact that no one of the applicants herein or any of the ancestors through whom they claim the right to Cherokee freedman citizenship is identified upon said roll of 1867, that they, or either of them did not return to the Cherokee Nation within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship.

Since the last proceedings had in this case, this office has secured from the Executive Secretary of the Cherokee Nation a list of the "Names of persons who have appeared, or have been duly summoned before the Commission on Citizenship of the Cherokee Nation, during the years 1878-79 & 80, and who have failed to establish their rights to Cherokee Citizenship;" which list was certified to by the Assistant Executive Secretary of the Cherokee Nation on the "18th day of April -" (record is worn and year not shown). Among others appearing in the list is the following:

No. of Case. Names of Claimants,
Col. 81 Riley McHair

1878-9
Decisions rendered.
By Default.

The failure of this colored person to prosecute his claim for Cherokee citizenship before the Cherokee Commission on Citizenship when his case was before that tribunal, which was at a time when the question as to the date of his return to the Cherokee Nation after the war of the rebellion could have been easily determined, is considered strong evidence of the fact that the conclusion herein reached that said applicants did not return to the Cherokee Nation prior to February 11, 1867, is correct.

The evidence herein further shows that the applicants, Ethel Townsend and Clarence Curtis died prior to September 1, 1902, and

-3-

affidavits to that effect are filed herewith and made a part of the record herein.

Section 25 of the Act of Congress approved July 1, 1902 (32 Stat. 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS THEREFORE ORDERED AND ADJUDGED: That, under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat., 495), Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Jane Riley, Daniel Thompson, Ellick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward, Vaine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cera J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Beatrix Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Emma Purtle Ellen Bean, Walter Vann, Waneta Vann, Frank Vann, Riley Vann and Lovat Vann, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied; and it is further ordered that, under the provisions of Section 25 of the Act of Congress above quoted the applications for the enrollment as Cherokee freedmen of Clarence Curls and Ethel Townsend, should be, and the same are, hereby dismissed.

Commissioner.

Dated at Muskogee, Indian Territory,

this _____.

Refer in reply
to the following:
Land 21760-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

COPY.

Washington, March 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the consolidated applications for the enrollment of Moses Riley et al., as Cherokee freedmen, wherein a final decision of rejection was rendered by the commissioner as to all the parties applicant on February 27, 1907.

This case was remanded by the Department for further investigation, and a large number of witnesses were sworn and testified in the case, and 285 pages of additional testimony taken. In addition to the oral evidence, certain original and certified copies of records throwing light on the contentions of the parties, were filed with the record and are now submitted.

Commissioner Bixby found that the applicants had not been in such a manner recognized by the tribal authorities of the Cherokee Nation as freedmen of that Nation as to entitle them under the present laws to enrollment as freedmen of the Cherokee

Nation. The Office cannot concur in this recommendation.

The supplemental evidence submitted, in the judgment of the Office, by a clear preponderance thereof shows that Samuel Riley or Riley McNair, who was at the beginning of the war of the Rebellion a slave of a Cherokee citizen, returned to the Cherokee Nation within the time prescribed by the treaty of 1866 and re-established himself therein. Documentary and other evidence clearly showing recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the Nation is in the record. It is also shown that all the applicants have resided throughout their entire lives, or for many years, in the Cherokee Nation, and no serious question has been raised as to their right to so remain and occupy the tribal lands.

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered:

Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnera Riley, Ideller Riler, Luther D. Riley, Frank Riley, Lettie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earle Riley, Clarence Riley, - (son of Lettie Riley), Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Martha Riley, Maggie Riley, Calvin Riley, Bertha Riley,

Ada Riley, Leona Riley, Fannie Scott, Charley Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lettie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Lenora Odine Riley (child of Jesse Riley), William Riley, Carrie Gibson, Cora J. Wagener, Oval Wagener, Arthur Riley, Elizabeth Melton, Elvora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Ethel Townsend, Emma Purtle, Frank, Riley and Levat Vann (children of Emma Purtle and Jesse Vann), Julius Curls, Jr., (son of Riley Curls), Oak Leon Wagener (son of Cora J. Wagener), Jesse Barnett (son of Maud and William Riley), Ellen Bean, Walter Vann, Waneta Vann, and John C. Riley (son of William Riley).

Very Respectfully,

C. F. Larrabee,

Acting Commissioner.

KEH-LC.

Refer in reply
to the following:
Land 21888-1907.
21899-1907.

C O P Y .

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Washington, March 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed records of the Commissioner to the Five Civilized Tribes in the matter of the applications of Julius Curle and Elmore Vann, applicants for enrollment as Cherokee freedmen, wherein decisions adverse to them were rendered by the Commissioner to the Five Civilized Tribes.

On the 2nd instant the Office in forwarding the Cherokee freedman case of Moses Riley recommended that the parents of these applicants, through whom they claim their rights, be enrolled. It necessarily follows, since the applications in these cases were made within the time prescribed by law, that if the parents were entitled, so are the children. It is therefore recommended that the adverse decisions of the Commissioner in these cases be reversed and that Julius Curle and Elmore Vann be enrolled as Cherokee freedmen.

Very Respectfully,

C. P. Larrabee,

Acting Commissioner.

I.T.D.7912-1907.
8018-8042-1907.

DEPARTMENT OF THE INTERIOR,

J.W.H.
W.C.P.
J.V.W.

Washington, March 4, 1907.

F.L.C.

The Commissioner to the
Five Civilized Tribes.

Sir:

The Department has considered the record in the matter of the consolidated applications for the enrollment of Moses Riley et al., as Cherokee freedmen, which was the subject of your decision of February 27, 1907, adverse to the applicants.

It seems that this case is now before the Department with additional testimony taken upon rehearing beginning October 26, 1906. There is no question as to the right of the common ancestor of these applicants, as well as the older parties to the case, to avail themselves of the opportunity afforded by article 9 of the treaty of 1866, between the United States and the Cherokee Nation, to acquire citizenship therein. The only question in issue concerns the date of the return of the common ancestor and his children to the Cherokee Nation. On the part of the applicants it is alleged that such return was made in the year 1866, it being claimed that the father of the family went first to the nation early in the spring of that year, and later returned to Kansas for the other members of the

family, with whom he removed from Kansas to the Cherokee Nation in the fall of that year.

On behalf of the Cherokee Nation it is contended that the head of the Riley family did not go to the Cherokee Nation until the spring of 1867, and that the removal of the family did not follow until the fall of that year.

In your said decision of February 27, 1907, you state that the testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the McNair place (in the Cherokee Nation) by any member or members of this family in 1866, and that none of said family was on the place "after the war of the rebellion, earlier than, possibly, May, 1867". This statement is presumably designed as a finding contrary to certain portions of the testimony of the applicants tending to show that the head of the family raised a crop of corn on the McNair place during the year 1866.

It is further stated in said decision that the testimony introduced on behalf of the applicants, to the effect that when the Riley family left the state of Kansas, they went direct to the said McNair place in the Cherokee Nation, is uncontradicted. Following this statement an analysis is made of the testimony of Judge William Spriggs, which was in favor of the applicants, and the inference is drawn that the testimony of Mr. Spriggs is inaccurate in respect of time.

Reference is also made by you to the census roll of citizenship of the Cherokee Nation prepared in the year 1867 by W. Tompkins, who was appointed by the United States as commissioner for that purpose. As the applicants' names do not appear upon this roll you infer that they did not return to the nation within the time limited by the treaty of 1866.

Reference is also made to the decision rendered by a commission on citizenship in the Cherokee Nation about the year 1878, or 1879, relative to one Riley McNair. The record does not clearly disclose anything concerning this decision, save that it went "by default" apparently in favor of the plaintiff.

Reporting in the matter, March 2, 1907, the Indian Office stated that it could not concur in your recommendation adverse to the applicants, finding that the supplemental evidence, by a clear preponderance of proof, showed return of Samuel Riley, or Riley McNair, to the Cherokee Nation within the time prescribed by the treaty of 1866. The Indian Office also notes the existence of documentary and other evidence which, in its opinion, clearly shows recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the nation.

The Indian Office further shows that all the applicants have resided throughout their entire lives, or for many years,

in the Cherokee Nation, and that no serious question has been raised as to their rights to occupy tribal lands.

Concluding its report of March 2, 1907, the Indian Office recommends the enrollment of certain of the applicants but not all of them, in the following language:

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered: Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley (son of Lottie Riley) Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luferd Johnson, Wilbert Johnson, Arch Johnson, Lenora Odine Riley (child of Jesse Riley) William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Ethel Townsend, Emma Purtle, Frank Riley and Lovat Vann (children of Emma Purtle and Jesse Vann), Julius Curls, Jr. (son of Riley Curls), Oak Leon Wagoner (son of Cora J. Wagoner), Jesse Barnett (son of Maud and William Riley), Ellen Bean, Walter Vann, Vaneta Vann, and John C. Riley (son of William Riley).

The Department has considered the additional testimony taken at the rehearing, and has further examined in connection therewith the testimony of the principal applicants taken thereto-

fore. The work of examining the case has been materially lightened by the careful briefs submitted by the attorneys, both for and against the applicants. In connection with said arguments there was submitted by the attorneys for the parties in interest a synopsis or analysis of the testimony relied upon, from which the relative weight of their contentions can be determined with some degree of certainty. With the assistance of said attorneys, and in view of the examination of the record referred to above, the Department has been able to reach a conclusion in the case.

It is not considered that the reasons given in your decision are sufficient to support the conclusion therein reached. It is believed that your decision is based more upon inference and negative proof than upon positive showing adverse to the applicants.

On the other hand it is found that the testimony of numerous witnesses who were acquainted with the elder applicants during the war of the rebellion, and prior to the treaty of 1866, shows with a high degree of certainty that said applicants left the State of Kansas and removed to the Cherokee Nation in the fall of 1866. This conclusion is corroborated by various official records, which show that in the years past the members of the family have been regarded as citizens of the Cherokee

Nation. Prominent among the witnesses who testified in their favor is Judge William Spriggs, referred to above. It appears that he is a man who has held positions of high honor in the State of Kansas, and that his testimony is entirely trustworthy. Such testimony is verified in material respects by that of numerous other white citizens of Kansas, who were his neighbors during the war. According to the testimony of Judge Spriggs, he advised the father of the principal applicants early in the year 1866, during the pendency of the treaty with the Cherokee Indians to remove to the Cherokee Nation, in order to secure their rights. An effort has been made to discredit the testimony of Judge Spriggs because it tends in part to show that the Cherokee freedmen were adopted by act of Congress, or treaty, in the spring of 1866, when as a matter of history the treaty with the Cherokees was not ratified until July 19th of the year 1866.

It is found, however, that at the close of the war of the rebellion new treaties with the Five Civilized Tribes were necessary on account of the attitude assumed by them during the war, and because of the changed conditions resulting from it. Consequently negotiations with said tribes were begun as soon as possible after the close of the war, and were under way as early as April of 1866. The testimony of a number of other prominent citizens in Kansas was given in favor of the applicants, showing the date of their removal to the nation. Said testimony

is largely cumulative in character, and need not be further referred to. It is considered important, moreover, to observe that the testimony of the principal applicant in 1901, compared with that given by him more than five years thereafter, is notably consistent in all material respects.

The testimony submitted on behalf of the Nation is not deemed sufficient to overcome that presented by the applicants or to show, of itself, that they should be denied enrollment. No serious attempt was made to refute the statements of Judge Spriggs and his neighbors although some effort was made to establish generally the probability of error in testimony after lapse of years. But if there is such probability it is no more likely to occur on one side than on the other, and in the case of Judge Spriggs and his associates I find that their memories were fortified and reinforced, through association, by important matters and events which enabled them to fix definitely the date of applicant's removal to the Nation. The Nation places considerable stress upon the testimony of Mary J. Thompson who claimed to have returned after the war to the old McKair place, in the Cherokee Nation, in the fall of 1866, and who testified that none of the Riley boys made a crop upon the place that year. This testimony necessarily relates to the spring and summer of 1866, yet it is not claimed that she herself returned to the Nation until November 1866. Manifestly decisive weight should not be attached to her

testimony under such circumstances, her statements being, like that of others relied upon by the Nation, negative rather than positive. Even though all the force claimed by given the testimony of this witness as well as that of others, including, particularly, Herman Vann, Key Catcher and J. H. Sevel, the Department would not be warranted in denying the enrollment of the applicants, except as noted hereinafter. Accordingly, as the Department concurs in the recommendation of the Indian Office, you are directed to enroll the persons mentioned herein, whose names are contained in the extract quoted from Indian Office report of March 2, 1907, and set forth above, as Cherokee Freedmen.

Your decision of February 27, 1907 is reversed as to the persons named in Indian Office report of March 2, 1907 (Land 21760-1907) but as to the other persons who are parties to this case, your said decision, adverse to them, is hereby affirmed.

The Department has also considered the Cherokee Freedman cases of Julius Curle and Elmore Vann, both of whom were denied enrollment by your decisions of February 28, 1907. The Indian Office recommends the enrollment of these children. Inasmuch as their parents are found herein to be entitled to enrollment, the Department concurs in the recommendation of the Indian Office and your said decisions, both dated February 28, 1907, are hereby reversed. You are accordingly directed to enroll Elmore Vann as a Cherokee Freedman. The name of Julius Curle appears in the list quoted from Indian Office report of the 2nd instant.

On February 28, 1906, by separate decisions, you also denied the enrollment of Jesse Riley, Oak Leen Wagener, and Alice Riley, as Cherokee freedmen. The Indian Office reported under date of March 4, 1907, that the enrollment of the parents of these children was recommended in its report of the 2nd instant. Such being the case, your said decisions of February 28, 1907, are hereby reversed and you are also directed to enroll the said Jesse Riley and Alice Riley as Cherokee Freedmen. As to Oak Leen Wagener, his name also appears hereinbefore in the list quoted from Indian Office letter of March 2, 1907.

A copy of this decision has been sent to the Indian Office, together with the papers in the cases referred to herein.

Very Respectfully,

(Signed) Jesse E. Wilson,

Acting Secretary.

Cherokee Freedmen 1567

Mariah Freeman.

For record see Freedmen No.
1566

Cher Fr 1568

Trans. from Cher Fr D258

Cher Fr 1568

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 11th, 1901.

In the matter of the application of Moses Riley for the enrollment of himself and one child as Cherokee Freedmen; said Riley being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

MELLETT & SMITH, Attorneys for Applicant.

MESSRS. L. B. NELL and W. W. HASTINGS, for Nation.

- Q What is your name? A Moses Riley, or McNair.
Q Which is which? A McNair.
Q I want to know what your name is now? A Riley.
Q What is your age? A About 51.
Q What is your post office address? A Chelsea.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Lillie.
Q Who is Lillie? A My daughter.
Q How many children do you want to enroll? A That is the only one I can enroll.
Q How old is Lillie? A 16 years old.
Q Did you ever apply to be enrolled by any other tribe or Nation?
A No, sir.
Q Have you ever been recognized by the Cherokee ~~Nation~~ authorities as a Cherokee Freedman? A Yes, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A The Wallace and Clifton roll.

BY MR. MELLETT, of Firm of Mellette & Smith, Attorneys for Applicants:

- Q Mose, where did you live during the war? A Here in the Nation, in Saline District.
Q Were you a slave? A Yes, sir.
Q Who was your Master? A Clem McNair, and Susan McNair.
Q Were they Cherokee Indians? A Yes, sir.
Q Citizens of the Cherokee Nation? A Yes, sir.
Q Did you leave the Cherokee Nation during the war? A Yes, sir.
Q Where did you go? A Kansas.
Q What was your father's name? A Riley McNair.
Q When did you return to the Cherokee Nation? A In '66.
Q What time in '66? A In the fall.
Q Who came with you? A My father and mother and ten children, ten of his children and my brother-in-law; that is when he moved his family.
Q Your brother-in-law, what was his name? A James Curles, and my cousin and uncle.
Q Who was your cousin? A Columbus Rogers, he is dead.
Q Who was your uncle? A Jim McNair.
Q Where is he? A He is dead.
Q Now, had your father been to the Cherokee Nation before you returned with him? A Yes, sir.
Q Tell the Commission about that? A In the spring he came down in the spring.
Q What year? A '66, and when he laid by his corn he went to get his family and moved them back in the fall.
Q Where did you go when you came here with your father? A Went to the old McNair place.
Q Where is that? A On the East side of Grand river.
Q What district? A In Saline.
Q Did you have a sister named Bettie Riley or Bettie McNair? A Yes, sir.

Q Where is she? A She is dead.
Q How long since she died? A I can't tell just how long exactly how long it has been since she died.
Q About how long? (No response.)
Q Ten years, or more or less? A I expect.
Q Did she return to the Cherokee Nation at the same time you and the rest of the family did? A Yes, sir.
Q Was she on the authenticated roll of the Cherokee Nation?
A Always so said to be.

MR. MELLETTTE: I would like, May^{the} Court, please, to see if Bettie Riley

Q What was her name at the time she died? A Bettie Hamilton on the roll of 1880.

is on the roll of 1880 as Bettie Hamilton or Standard.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and the name of woman referred to not found thereon, under either the name Riley, Hamilton, or Standard.

APPLICANT: She drew her money on the 1880.

(The name of Columbus McNair is the only one by that name who appears upon the Freedmen roll of 1880.)

BY COM'R NEEDLES: How old would she (Bettie Hamilton) be in 1880? A If she lived now she would be about 54 or 56 years old.

BY MR. MELLETTTE: Who were members of your father's family at the time you returned to the Cherokee Nation in 1866? A Mellán Riley, Andrew, Mose Riley, Jerry Riley, Jesse Riley, Frank Riley, Emma Riley, Fanny Riley, Lizzie Riley, Bettie Riley, Delilah Riley.
Q Have you lived in the Cherokee Nation since you returned here in 1866? A Yes, sir.

Q Never lived any other place since that time? A No, sir.

Q Have you ever exercised any rights of citizenship in the Cherokee Nation since you returned here? A Yes, sir, I have got permits they call white man, just like these other indians.

Q For what? A For them to work for to make corn.

Q Who would issue these permits, by what officers? A Joe Lahay at Claremore.

Q Ever exercise any other rights of citizenship in the Cherokee Nation? A Voted ever since I have been old enough.

Q For what offices did you vote? A All of them.

Q Did the Cherokee authorities ever object to your voting? A No, sir; never did.

Q Have you any farms in the Cherokee Nation? A Yes, sir.

Q How long? A Ever since I got big enough to own any I have had some kind of one all the time.

Q You say you are on the Wallace roll and the Kerns-Clifton Roll?
A Yes, sir.

The 1880 Authenticated roll of Freedmen of the Cherokee Nation examined and applicants name not found thereon.

The 1896 census Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kerns-Clifton Roll of Freedmen of the Cherokee Nation examined and the names of applicants found thereon as follows:

Page 176, #4338, Mose McNair, or Riley, Cooweescoowee Dist.
Page 122, #3047, Lillie McNair, Cooweescoowee Dist.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 127, #2662k Moses McNair, Cooweescoowee District.

BY W. W. HASTINGS, Cherokee Representative:

- Q You didn't come with your father when he first came?
A No, sir.
- Q What was your father's name? A Kitten Riley McNair.
- Q Where did you first come to when you come here to the Cherokee Nation? A The old McNair place.
- Q Was that in Saline District? A Yes, sir.
- Q Who were your neighbors down there? A Saturday Vann and her children and Betsy Squirreltick and Mary Stinkewater.
- Q Did you come in a wagon? A Yes, sir.
- Q Did anyone besides the members of your family come along?
A My uncle and brother-in-law.
- Q What was their names? A Jim McNair and Columbus Rogers.
- Q From what point in Kansas did you come? A Garnett, Anderson County.
- Q Did you come in the spring or fall? A Come in the fall.
- Q About what time in the fall did you come? A I don't know, sir, just exactly what time, I can't tell exactly what time, but it was in the fall; old man laid by his corn and then went up there and wasn't so very long before he returned again.
- Q Upon whose place did he make a crop that year? A On the old McNair place, Jack McNairs place.
- Q Was Mrs. Martin Thompson living there at that time? A Yes, sir.
- Q She was living there was she? A Yes, sir.
- Q Did she have any family, Mrs. Martin Thompson? A Old man McNair just had got in.
- Q Did they have any children? A Had some little bitsey ones, baby and another little one or two.
- Q Did your father take a wagon back up there for his family?
A Yes, sir, he took an old Texas Dump cart, fastens on the wagon tongue and dumps cotton out witha.
- Q Was that his wagon? A Belonged to some of them down here, I can't tell you whose it was, we left it there on the old McNair place when we left there.
- Q You don't know whether it belonged to the Cherokee McNair family or not? A I can't say that, we left it there.
- Q How long did you live down there at that place where you first went to? A Made two crops, the old man raised there, we raised one after we come.
- Q And then where did you go to from there? A Went to Pryor Creek; well on the other side of where John Edwards lives now, two or three miles south of there under the foot of them mountains.
- Q How far is that from where Pryor Creek now is? A I expect it must be seven miles up the Creek from there.
- Q Northwest? A Yes, sir, little Northwest.
- Q How long did you live there? A I can't tell you how long, but we lived there quite a spell.
- Q Were you ever arrested by the Cherokee authorities? A Yes, sir.
- Q What were you charged with? A Stealing a hog.
- Q Did you have some other members of your family arrested at the same time? A Yes, sir, two of them besides me, father and one of my brothers.
- Q Who were you charged of stealing the hogs from? A I guess they must have said it was Alex Rider's hogs, I was not, I guess it must have belonged to some of the Riders, I never seen the hogs, but I was charged with it just the same.
- Q Alex Rider was some kin to Blue Rider? A Yes, sir, his brother.
- Q That was out at the Court House in Cooweescoowee District?
A Yes, sir, out on Dog's creek, kept us there in prison about eighteen days, me and my little brother and daddy.
- Q You people at that time claimed you were not citizens of the Cherokee Nation? A Yes, sir, we claimed we were citizens then.

Moses Riley, et al.--4.

Q They didn't try you? A Yes, sir, they tried us, I guess it is what you might call trying, a man and the jury and all sit along there and old man Judge Rogers was the Judge and well I was kinda little, but then they pled and kicked around there and adjourned for dinner and they say to come back after dinner and the jury went out and come back and Judge Rogers said it was a verdict, it was a little piece of paper and Judge Rogers said I was clear.

Q You didn't raise the question as to your citizenship at that time? A No, sir; they knew we was citizens.

Q Who was your lawyer? A Judge Mayes.

Q Joel Mayes? A Yes, sir.

Q Is your mother's name Mariah McNair? A Yes, sir.

Q Were you present in 1896 when your case was tried? and hers, you were all put in one case and tried? A Yes, sir, we was all ten of us there, all ten of us children, we might not have been all in there.

Q You had Andy Frye and Millie Frye as your witnesses?

A Yes, sir.

Q You were present? A I was not in the house.

Q You never heard them testify? A No, sir; I never heard them testify.

Q You don't know then whether they said you come back in '67 or not? A No, sir, I don't guess they could hearly state that and been justifiable in it, I don't think they could of.

Q You state you were not present? A No, sir, I was not in there.

BY MR. MELLETTTE:

Q When was it you were tried in the Cherokee Courts for hog stealing? A I don't know.

Q Have you an idea when it was? A It must have been, to the best of my memory, somewhere along about, close I expect, if I would say anything, I would say about '69, somewhere along there.

Q The Representative of the Cherokee Nation mentioned the name of Mrs. Martin Thompson and asked if she was on the McNair place at the time you arrived in 1866, who was she? A She was Jack McNair's wife; he married in Texas, I don't know where he married her, but anyhow he brought her back there.

Q You say she was on the place at the time you arrived there?

A She was on the place when father brought us there and I don't know whehther she was there when he come back or not.

Q If she had married Jack McNair she would not be called Thomspson?

A Jack McNair's brother-in-law married Jane Thompson.

Q She was Mrs. McNair when you went there? A Yes, sir.

Moses Hardwick, being duly sworn by Commissioner T. B. Needles, testified as follows: EXAMINATION BY MR. MELLETTTE:

Q What is your name? A Moses Hardiwo.

Q Where do you live? A Live out on Pryor Creek.

Q How long have you lived in the Cherokee Nation? A Ever since I have been born up until the war.

Q Did you leave the Cherokee Nation during the war? A Yes, sir, the federal army taken me out.

Q Where did you go? A Fort Scott, Kansas.

Q Do you know Moses Riley? A Yes, sir.

Q Did you know his father? A Yes, sir.

Q What was his name? A Riley McNair.

Q Where did you first know Riley McNair? A Right down here at Saline when we was boys.

Q Cherokee Nation? A Yes sir.

Q Did you see him in the State of Kansas during the war? A I did.

Q When did you return to the Cherokee Nation? A I returned here in the spring, the Indians said it was 1866.

Moses Riley, et al.--5.

Q Who came with you? A Uncle Tom Moore, brother Jeff Lyons, Riley McNair.

Q Riley McNair, the father of Moses? A Yes, sir.

Q Where did you come when you returned to the Cherokee Nation?

A To the old Doctor Thompson's.

Q Where did he go? A He said he was going down to his old Master's place.

Q Riley McNair said he was going down to his old Master's place?

A Yes, sir.

Q That is who? A Clem McNair.

Q Was he alone or with his family at that time? A He was alone.

Q What, if anything, do you know in regard to his bringing his family? A No, I don't; he said he was going after it in the fall and bring it down.

Q Did you see him at any time after he, after you parted with him?

A Yes, sir, I seen him along in the summer along in roasting ear time.

Q Did he make any declaration to you at that time about going to Kansas after his family? A Said he was going after them after he laid his crop by.

BY L. B. HELL, Cherokee Representative:

Q Did you make a crop here in 1866? A Didn't make any crop I made a garden spot.

Q Where at? A Over on the Doctor Thompson's place, made a crop there in the Spring of '67.

Q Where did you see Riley about roasting ear time? A At Spring Frog house, at the meeting house.

Q Mose, you are not a recognized citizen are you? A I have been said to be, I have been voting just like the balance of them.

Q Your rights have been disputed? A Was disputed long time ago, but the courts ordered it to be settled and it was settled.

Q You went down to Tahlequah before the Bob Daniels Court in 1871 and '72? A Yes, sir, I went down there.

Q And they decided against you? A Didn't decide anything; Bob Daniels asked me what you negroes come here for, and I told him what we was there for and he told you negroes go home and go to work, we are doing business for the Indians and we went home the next day.

Q And your case was not passed upon? A No, sir.

JIM ALBERTY, being duly sworn by Commissioner T. B. Needles, testified as follows; EXAMINATION BY MR. MELLETTTE:

Q What is your name? A Jim Alberty.

Q Where do you live? A Saline District, eight miles east of Chouteau.

Q How long have you lived in the Cherokee Nation? A Well I guess I have been here 76 years to the best of my recollect, all the days of my life.

Q Were you a slave in the Indian Territory? A Yes, sir.

Q Who owned you? A John Alberty.

Q Did you leave the Territory during the war? A Yes, sir.

Q Where did you go? A Went south.

Q Where to? A Down in the Chickasaw Nation.

Q When did you come back here to the Cherokee Nation? A '66 before the treaty was made.

Q Do you know Moses Riley? A Yes, sir.

Q Did you know where he was in 1866? A Yes, sir.

Q Where was he? A At his old home on Clem McNairs old place, his Master's place.

Q How do you know he was there? A I went there and saw him there, and staid all night there.

Q Have you lived in the Cherokee Nation since you came here in 1866? A Yes, sir, ever since.

Moses Riley, et al.--6.

Q Own property here? A Yes, sir, I have got as good a farm as any man in this country.

Q Have you voted here? A Yes, sir.

Q How many times? A Every time there was an election, the last time was when they killed this treaty.

BY L. B. BELL:

Q Jim, did you serve in the army during the war? A Yes, sir.

Q Whereabouts? A Right here about Fort Smith and around.

Q Were you at the siege of Vicksburg? A Yes, sir; I was there.

Q Well, what army were you in? A You know when they killed near a hundred thousand men.

Q On which side were you on? A Northern side, of course.

Q Who were your officers; what was your regiment? A Fiftyseventh Colored.

Q Is it designated by States or anything of that sort or was it just 57th? A 57th colored.

Q Where did you enlist? A Right here at Little Rock.

Q When? A Oh, I can't tell, that was while the war was going on, I don't know.

Q How long did you serve? A I served until peace was made and I run away and come back home here.

Q You just simply quit them? A Yes, sir.

BY W. W. HASTINGS, Cherokee Representative:

Q Whom did you come back with, Jim? A By myself.

Q Where did you leave the army? A At Fort Smith.

Q Whom were you staying with when you enlisted in the army? A I wasn't staying with anybody, just as soon as I run away from the south I went into the army and when peace was made and I found out I would not be killed I ~~come~~ quit them cold and come here.

Q Who took you south? A John Alberty.

Q Who were along when you went south? A I don't know.

Q Who took you? A One man by the name of, some name, Bob Baugh's wife, old Weldon, used to horse race.

Q Was he a white man? A Yes, sir.

Q He took you to Red river? A Took me to the Chickasaw Nation.

Q And you left him there? A Yes, sir.

Q And went to Little Rock? A Yes, sir, and enlisted.

Q You hadn't been to Little Rock long when you enlisted? A No, sir, long enough to enlist and pretty near ready to draw pay, and when they said the war was ended I ~~was~~ didn't want to draw pay.

Q Are you on the roll of 1880? A No, sir, but I tell you the reason, I know I went there and presented myself and they would not put me on.

BY MR. MELLETT:

Q You say you returned to the Cherokee Nation before the Treaty was adopted? A Yes, sir. I was here and heard every item of the Treaty ~~stated~~ there was.

Q You heard the Treaty discussed? A Yes, sir; and then went to Tahlequah and heard it read but I can't tell you what it said.

BY L. B. BELL:

Q Are you acquainted with Piley Lindsey? A At Chouteau.

Q Yes. A Yes, I have saw him.

Q Did you ever see him before the war? A If I did, I didn't know him.

Moses Riley, et al.--7.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 13th day of May, 1901.

M. D. Green

Notary Public.

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CONTINUATION OF THE ORIGINAL APPLICATION, COMMENCED THIS THE 11th DAY OF MAY, 1901. COMMISSION ADJOURNED AT NOON OF SAID DATE, AND AT ONE O'CLOCK OF SAID DATE, SAID HEARING CONTINUED, AS FOLLOWS:

• • • • •

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May, 11th 1901.

In the matter of the application of Moses Riley for the enrollment of himself and one child as Cherokee Freedmen;
SOPHIE BRYANT, being called and sworn as a witness on the part of the applicant, by Commissioner T. B. Needles, testified as follows:

Examined by Mr. Mellette, of counsel for applicant:

- Q What is your name? A. Sophie Bryant.
Q Where do you live? A. In Saline District.
Q In the Cherokee Nation? A. Yes sir.
Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.
Q Are you on the authenticated roll? A. Yes sir.
Q By what name? A. Sophia Vann.

By Mr. Mellette: If it please the Commission, we would like to have the 1880 enrollment of this witness included in the record.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the witness identified thereon as follows:
Page 192, No. 3042, Sophia Vann, Cooweescoowee district.

- Q Were you absent from the Cherokee Nation during the war? A. Yes sir.
Q Where did you go? A. To Kansas.
Q When did you return to the Cherokee Nation? A. In 1866.
Q Do you know Mose Riley, the applicant herein? A. Yes sir.
Q Do you know when he returned to the Cherokee Nation? A. Yes sir.
Q When? A. In the fall of '66.
Q How do you know he returned then? A. He was along with me when I came—his folks and him.
Q That was Mose's brothers and sisters, were they all there at that time—was Andrew Riley along? A. Yes sir he was along.
Q Do you know Jesse Riley? A. Yes sir.
Q Was he along? A. Yes sir.
Q Do you know Frank Riley? A. Yes sir.
Q Was he along? A. Yes sir.
Q Do you know Jerry Riley? A. Yes sir.
Q Was he along? A. Yes sir.
Q Did you know all the brothers and sisters of Mose Riley? A. Yes sir.
Q Do you know Emma Riley? A. Yes sir.
Q When did she return? A. They all come in the fall of '66.
Q The same time you did? A. Yes sir.
Q How about Fannie? A. All came with the family.
Q And Delilah, where was she? A. She was along.
Q Lottie Riley? A. Lottie Riley was along with the family.
Q Was Millie along at that time too? A. Yes sir.
Q Where did they come—to what part of the Cherokee Nation? A. Come in Saline District and settled there.
Q Near what place? A. McNair's.

By W. W. Hastings, Cherokee attorney:

- Q What was your father's name? A. Vann, so they say.
Q What was his first name? A. William.
Q What was your mother's name? A. Catherine McNair.
Q Is your mother a sister of the father of Mose Riley? A. Yes sir.
Q You and these people you have named as being with you in the fall of '66 are first cousins? A. Yes sir.

Moses Vann 2.

Q You afterwards married Gilbert Vann? A. Yes sir.
Q He was a recognized citizen? A. Yes sir.
Q And he enrolled you in 1880 didn't he? A. Yes sir he enrolled us.
Q You don't know one year from another? A. Yes sir I do.
Q You were quite small when you came back from Kansas? A. I was not grown, I was eleven past.
Q How old are you now? A. 45 years old now.
Q Who else came along back in the crowd? A. A whole lot of folks.
Q Did your father come with you? A. No sir he was dead.
Q Did your mother come with you? A. No sir she was dead.
Q You was raised up by these people were you not? A. Yes sir.
Q You came with him and his family back to the Cherokee Nation from Kansas? A. Yes sir with my uncle.
Q They told you that it was in 1866, you was a little girl then and did not know what year it was? A. Yes sir I was a little girl then.
Q Did you come in wagons? A. Yes sir.
Q How many wagons were there? A. I dont know, I never kept no track
Q Was there as many as five or six? A. Oh more than that.
Q What other people except your family and your uncle's came through at the same time you did? A. There was a whole lot of families, I dont know just who all, there was my uncles family, and Columbus Rogers family, and a whole lot of others, there was Brother Nicey Mayfields family.
Q What other families? A. I dont remember how ~~many~~ many families was there.
Q Quite a number though? A. Yes sir.
Q As many as a dozen? A. More than that, I dont know though how many, I never paid no tention to such things then.
Q Who was living on the old McNair place when you came there in '66? A. Jack McNair was there.
Q Was he a Cherokee? A. Yes sir.
Q Was his wife there? A. I dont know if it was his wife, but I know she was called Jane McNair, she was there.
Q Did she afterwards marry Martin Thompson after McNair's death? A. Yes sir, that's the one.
Q You lived there how long on that place? A. I dont know how long we lived there, long enough to make a crop though and then settled on Pryor Creek, I never kept no track of those things.
Q Did you come in the spring of the year to the McNair place? A. No sir in the fall of '66.
Q Who told you that it was the fall of that year that you got there? A. The family.
Q You was a small child, eleven years old, and yet you remember them telling you that it was in the fall of '66 that you come there? A. Yes sir I do.
Q What year is this? A. 1891.
Q 1891? A. No 1891 I mean to say.

By Mr. Hastings: * Comes now the Cherokee Representatives and offer in testimony a part of the record of: " Minutes of Special Court of Commission, Supreme Court 1871 " of the Cherokee Nation, on page 62 of which is found: " Monday morning, June 5th 1871, court met, Chief Justice R. B. Daniels and Associate Justice Redbird Sixkiller present. There being no cases ready for trial, adjourn to 9 o'clock tomorrow morning, Tuesday morning, June 5th 1871. " and on page 63 is found under said date: " Mose Hardrick and family. The Court decide from the evidence adduced that the defendants are not entitled to the rights of Cherokee citizenship under the Ninth Article of the Treaty of 1866. "

By Mr. Hellette: We desire to object to the introduction of the said record in testimony.

By Commissioner Needles: Do you wish to give your reasons for objecting?

Moses Riley 5.

By Mr. Mellette: No sir, we simply enter a general objection at this time to its introduction.

ALLEN LYNCH, called and sworn as a witness on the part of the applicant, testified as follows:

Examined by Mr. Mellette:

- Q What is your name? A. Allen Lynch.
- Q Are you a Freedman citizen of the Cherokee Nation? A. Yes sir.
- Q On what roll are you? A. I guess I am on all of them.
- Q Are you on the authenticated roll? A. Yes sir.
- Q Do you know Moses Riley? A. Yes sir.
- Q Do you know where he was in any part of the year 1866? A. 1866?
- Q Yes sir. A. Well I will state to you where the old man was first; the old man came here in the spring of '66 and raised a crop on the old McNair place; he was our local preacher round there, and after he laid by his crop he went back to Kansas for his family; I don't know just exactly when he returned that time but it was in the fall.
- Q Did he return that time with his family? A. Yes sir.
- Q Where were you living then? A. On Grand river on the Dr. Thompson place.
- Q Do you know Andrew Riley? A. Yes sir.
- Q Do you know his brother Moses? A. Yes sir.
- Q When did he return to the Indian Territory? A. He came back with the old man.
- Q He came back the same time as the old man did? A. Yes sir.
- Q Did you see Jesse Riley there? A. I never saw none but Mose and Andrew of the boys.

By W. W. Hastings:

- Q Where did you make a crop in 1866? A. I didn't make any at all.
- Q Where were you living in 1866? A. On the Dr. Thompson place.
- Q How far is the Dr. Thompson place from the McNair place? A. About fifteen miles.
- Q Olen McNair and his wife Mrs. Cherokee McNair were there were they, on that place? A. I think it was the Jack McNair place; I know I was up there and saw old man Riley plowing there.
- Q On that farm? A. Yes sir.
- Q When was that that you saw him plowing there on the McNair place—what time of the year? A. In the last of April.
- Q You are positive of that? A. Yes sir, long about that time.
- Q When did you actually see the other members of his family, of his and Moses? A. In the winter after he had raised that crop.
- Q Are you prepared to swear that you saw them all the following winter, or the winter of '66? A. I am not positive as to all of them, I know the old man was here then.

By Mr. Mellette:

- Q In the year of 1866? A. Yes sir.

COLUMBUS McNAIR, called and sworn as a witness on the part of the applicant, testified as follows:

Examined by Mr. Mellette:

- Q What is your name? A. Columbus McNair.
- Q Where are you living? A. At Vinita.
- Q Are you a Freedman citizen of the Cherokee Nation? A. Yes sir.
- Q On what roll are you? A. On the '80 roll.
- Q Do you know Moses Riley? A. Yes sir.

Q Do you know where he was in the year 1866? A. Over here on Grand River.
 Q In the Cherokee Nation? A. Yes sir.
 Q How do you know it? A. I was there.
 Q What time in 1866? A. In November.
 Q Do you know Andrew Riley? A. Yes sir.
 Q Was he there? A. Yes sir.
 Q Do you know Jessie Riley? A. Yes sir.
 Q Was he there? A. Yes sir.
 Q Do you know Frank Riley? A. Yes sir.
 Q Was he there? A. Yes sir.
 Q Do you know Jerry Riley? A. Yes sir.
 Q Was he there? A. Yes sir.
 Q Do you know Emma Riley? A. Yes sir.
 Q Was she there? A. Yes sir.
 Q Do you know Fannie Riley? A. Yes sir.
 Q Was she there? A. Yes sir.
 Q Do you know Delilah Riley? A. Yes sir.
 Q Was she there? A. Yes sir.
 Q Do you know Lottie Riley? A. Yes sir.
 Q Was she there? A. Yes sir.
 Q Do you know Millie Riley? A. Yes sir.
 Q Was she there? A. Yes sir.
 Q When did you come to the Cherokee Nation—when did you return after the war? A. In '66.

By W. W. Hastings:

Q What time in '66 did you come back? A. In the spring of '66, I didn't come to my uncle's though until he fall.
 Q What point in the Cherokee Nation did you come to first? A. To Webbers Falls and then to Fort Gibson.
 Q Who did you live with in Webbers Falls? A. I didn't live with any one there.
 Q Well who did you stay with there? A. Coffee Sheppard.
 Q How long did you stay with him? A. Just staid all night with him.
 Q Start to work there? A. No sir.
 Q Just staid there all night? A. Yes sir.
 Q And that was in the spring of '66? A. Yes sir.
 Q When you left there where did you go? A. On the river.
 Q What river? A. Here on Grand river.
 Q Near what place? A. The McNair place.
 Q This old McNair place they have been testifying about? A. Yes sir.
 Q About what time was that? A. In May of '66.
 Q Well you saw the father of this applicant there then did you? A. Yes sir, I saw them there, but the whole family didn't come back till in the fall.
 Q Did he make a crop there? A. Yes sir.
 Q He is your uncle is he? A. Yes sir.
 Q And these applicants are your first cousins? A. Yes sir.
 Q Was Mrs. McNair—Mrs Cherokee McNair there? A. Yes sir in the fall.
 Q If those other witnesses say that she was there in the spring, they are mistaken are they? A. Yes sir, she made arrangements with my uncle to take charge of the place.
 Q You mean she made arrangements with him when he got here to take charge of the place? A. No sir she was not there when he got there but she had sent word to him to take charge of the place when he got back.
 Q Sent word to what? A. To my uncle, Riley McNair.
 Q Mrs. Cherokee McNair sent word to your uncle for him to come and take charge of that place? A. Yes sir.
 Q Where did she live at the time that she sent that word? A. In the Chectaw Nation.
 Q And your uncle was living in Kansas— he came from Kansas down here didn't he? A. Yes sir.

- Q And he came there and made a crop on the McNair place that year?
A Yes sir, in '66.
Q And Mrs. Cherokee McNair who was living in the Choctaw Nation had made arrangements with you uncle who was living in Kansas to come there and take charge of the old place? A. No sir she sent word up there for me to make arrangements and come through and take charge of the old place.
Q You staid there all that time did you, with your uncle while he was making a crop? A. No sir.
Q With what other people did you stay? A. I staid at Grap Lynch and at Abie, and then with Stephen and ~~George Johnson~~. George Johnson.
Q Where did you go that winter of '66? A. I went up in Kansas.
Q You know and can swear positively that your uncle went back and brought his family to that place, including Mose McNair or Riley, in 1866? A. Well I never saw him go up there and get them but when I come back there again they was all there.
Q When did you come back the last time, the time you saw them all there? A. In January of 1867 just after Christmas.
Q How long after Christmas? A. Not very long.
Q A month? A. No sir.
Q Three weeks? A. No sir just a week or so.
Q Was that the first time that you saw any of the family besides the old man? A. No sir Mose was there all the time, but the old lady and the younger family wasn't there till I got back again.
Q Then you uncle brought back part of his family with him when he came the first time in the spring? A. Yes sir.
Q How many of these boys did you see with their father when you came there the first time in the spring of '66? A. Andrew, Moses, Jesse and Jerry.
Q That was four that were with their father in the spring of '66? A. Yes sir the rest come in the fall.
Q You are positive of this are you? A. Yes sir.
Q That was in the spring of '66 that you saw these four boys with their father on the McNair place? A. Yes sir.
Q Their father was Riley McNair? A. Yes sir.
Q And you saw him and these four sons you have named on the McNair place during the months of April or May of the year 1866? A. Yes sir, and Mose went and helped get the family in the fall.
Q Where was you when they went up to Kansas to get the balance of the family? A. I was in Kansas.
Q You was there in Kansas when Mose came up to get the rest of his family? A. Yes sir.
Q Did Mose come in a wagon after his mother? A. Yes sir.
Q Mose left his father and the rest of those four boys down there on the McNair place and went to Kansas to get his mother and the rest of the family did he? A. Yes sir; I left them down there and I went to Kansas and went to work.
Q Who did you work for in Kansas that time? A. For a man named Lindsay.
Q You were up there in Kansas then in the fall of that same year? A. Yes sir.
Q And then you came back here the next January? A. Yes sir.
Q How long did you stay here the time you passed through the first time? A. Just a week or so.
Q And then you went back up there where the mother of this family was? A. Yes sir, in Kansas.
Q And in the fall Moses Riley came up there? A. Yes sir.
Q And when you came back here the last time they was all here? A. Yes sir.

WILLIAM FOREMAN, called and sworn by Commissioner T. B. Needles on the part of the applicant, testified as follows:

Examination by Mr. Mellette:

- Q What is your name? A. William Foreman.
Q Are you a Cherokee citizen by blood? A. Yes sir.

Moses Riley 6.

Q Are you recognized as such? A. Yes sir.
Q As a citizen of the Cherokee Nation? A. Yes sir.
Q Do you know Moses Riley? A. Yes sir.
Q The applicant here for enrollment? A. Yes sir.
Q Where were you living in 1866? A. In Saline District on Lynche's Prairie.
Q Do you know where Moses Riley was in '66? A. On the Glen McNair place.
Q In what district? A. Saline.
Q In the Cherokee Nation? A. Yes sir.
Q What time do you think it was that you saw him in 1866? A. I saw him several times through the summer; I had a little store there and he came there and traded some.
Q Do you know his father, Riley McNair? A. He was there.
Q When did you move from there? A. I moved from there the last of September or the first of October, I had sold out my store.
Q Of what year? A. 1866.

By W. W. Hastings:

Q You were keeping a store there last year? A. Yes sir.
Q Was Riley McNair's family there? A. ~~There was there~~ I only saw these two, Moss and the old man.
Q How far from the old McNair place was your store? A. About six miles.
Q About what time of the year did you first see them? A. I think it was in May, some time in the Spring; they came there and bought some groceries and things.
Q You are sure you saw Moses there? A. Yes sir.
Q And that was in the Spring of '66? A. In May or April.
Q You are positive that you saw Moses there with his father? A. Yes sir.
Q Where were they living then? A. On the Glen McNair place.
Q Did they make a crop there? A. They said they did, I didn't see the crop.
Q Did Mrs. McNair live there then—the Cherokee Mrs. McNair? A. No sir.
Q When did she move there? A. I don't know.
Q That was the place they lived on—the one she owned? A. Yes sir.
Q You seem to know more about the colored people of the Cherokee Nation than you do about the Cherokee people don't you? A. There were not many Cherokees there about that time, they had all gone out.
Q You don't know when she got back? A. No sir.
Q What are you doing now—what is your occupation? A. I told you that the other day.
Q Well I want it in this case too? A. I am not doing anything just now, am sort of burning round.
Q You testified for what is known as the Robinson case before the Kerne-Clifton Commission five years ago didn't you? A. Yes sir.
Q How much did they give you to testify for them in that case? A. What has that to do with this case.
Q I want an answer to this question, I am going to ask that question of you every time that you come here and testify.

By Mr. Mellette:

I desire to object to the question the attorney for the Cherokee Nation asks of this witness as to what he received for testifying in a case before the Kerne-Clifton Commission, on the ground that a witness cannot be impeached by proving a particular act or acts of that witness, but a witness must be impeached by showing that he makes contradictory statements, or by showing his general bad character for truth and veracity.

By Commissioner Hoodless: We will let go for what it is worth and your objection will be noted.

By Mr. W. W. Hastings:

Moses Riley 7.

Q I would like to have an answer to that question? A You want to know how much they gave me?
Q Yes sir? A. They agreed to give me \$25.00 each.
Q And there were five of them? A. Yes sir.
Q That would be \$125.00 in all? A. Yes sir.
Q Did any one else agree to pay you that time? A. Yes sir Andy Daniels.
Q How much? A. \$50.00 for himself and his wife.
Q Did any one else? A. No sir, several promised me but never paid me.
Q You took notes for people didn't you for testifying for them? A. Yes sir I took notes from those I have named.
Q Have these people in this application here, agreed or promised to give you anything? A. No sir.

By Mr. Hellette:

Q Did they give you this money as a bribe to testify falsely? A. No sir.
Q Did you testify the truth? A. I did.
Q Was the money received from them in payment of your time and expenses? A., Yes sir.

By W. V. Hastings:

Q How long did it take to try the Robinson case? A I dont remember.
Q How long were you on the stand in that case? A. I dont know.
Q All of them were consolidated as one case were they not? A. Yes sir.

By Com'r Needles,--

Moses Riley applies for the enrollment of himself and his child Lillie Riley as Cherokee Freedmen; upon an examination of the authenticated roll of 1880 his name cannot be found thereon, but it is found on the Kerne Clifton roll and the Wallace roll according to the page and number of the rolls as indicated in the testimony. The name of his child Lillie is also found on the Kerne-Clifton roll and is duly identified as the child of the applicant. The applicant is identified on the Kerne Clifton roll as Mose McNair or Riley, and his child Lillie is found as Lillie McNair. They are both duly identified as the applicant and his child; they both make satisfactory proof as to residence, consequently the said Moses Riley and his child Lillie will be listed for enrollment as Cherokee Freedmen on what is known as a DOUBTFUL CARD to await the further consideration of the Commission. When the Commission arrives at a final conclusion in his case he will be notified by mail.

Chas. von Meide, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the continuation of the above application and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 14th of May, 1901, at Vinita, I. T.

Chas von Meide
Thurman
Commissioner.

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258

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 15 1901


ACTING CHAIRMAN.

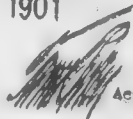
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F. D. 258

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 11 1901



ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

CHEROKEE FREEDMEN

Date

Post Office

District

Age

Citizenship

1. Name

Owner's name

Year

Page

No. 4338

District

Parents:

Father

Mother

Citizenship

Citizenship

2. Name of wife

Owner's name

Year

Page

No.

District

Age

Citizenship

Parents:

Father

Mother

Citizenship

Citizenship

Names of Children:

3.

Lillie Riley

Year

Page

No.

Dist.

16

4.

Year

Page

No.

Dist.

5.

Year

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No.

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11.

Year

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Dist.

12.

Year

Page

No.

Dist.

Application made by

Stenographer

Mrs. 1

/ On K. & L. roll as Mrs. Mc Nair, or Riley

2 " " " " Lillie " "

/ " Wallace " Page 127 # 2661 Mrs. Mc Nair - Bos.

Mellott & Smith, attys for applicants

FD 258

UNITED STATES DEPARTMENT OF JUSTICE

RECEIVED

1901

COMMISSIONERS:

HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,

ALLISON L. AYLESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chelsea, Indian Territory, May 31st, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Moses Riley et al for enrollment as Freedmen of the Cherokee Nation.

Mullett Smith

Attorneys for Applicants.

Cherokee F. #D258.

SUPPLEMENTAL, D-258, in rebuttal.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., May 31, 1901.

In the matter of the application of Moses Riley, et al, for enrollment as Cherokee Freedmen;
MARY J. THOMPSON, being sworn and examined by Commissioner Brackinridge, testified as follows:

Appearances:

Mellette, of Mellette & Smith, for applicants;
W.W.Hastings, Cherokee Representative.

Q Give me your name? A Mary J. Thompson.
Q How old are you? A 62.
Q What is your post-office? A Chelsea.
Q In what district do you live? A Cooweescoowee.
Q You desire to give testimony, I believe, in the Cherokee Freedman case of Moses Riley, and his daughter, Lillie, is that right?
A I don't know anything about his family; he was a young man when I knew him.
Q Is this the case you are here to give testimony in? A It is a Riley case.
Q I want to find out what case I am dealing with before I take testimony, it is in the Moses Riley case is it? A Must be.
Q How long have you lived in the Cherokee Nation? A Ever since the fall of 1866.

Examined by Cherokee Representative, W.W.Hastings:

Q What was your maiden name? A Hale.
Q When were you first married? A In '58.
Q To whom? A D. M. Brown.
Q You were married a second time were you? A Yes sir.
Q What was your second husband's name? A John M. McNair.
Q Was that your last husband? A No sir, Martin Thompson was my last husband.
Q Where were you during the Civil War? A In Texas.
Q Who did you return to the Cherokee Nation with? A J.M.McNair.
Q Do you know what his mother's name was? A Susianna McNair.
Q Where did you come to in the Cherokee Nation? A On the home place, three miles above the Orphan Asylum, Susianna McNair's place.
Q In what district was that? A In Saline District.
Q What time do you say you came there? A In the fall of '66, November.
Q Where did you live that winter? A Right there on that place; Grand River.
Q How long did you continue to live on that same place? A I lived there until '77.
Q Did you ever know a colored man by the name of Riley McNair?
A Yes sir.
Q When did you first see him? A It was in May, 1867.
Q Where did you see him? A He came to our place there, Mr. McNair's place.
Q The place where you were living? A Yes sir.
Q Did you know where he came from? A He claimed to come from Kansas
Q Did he have his family with him? A He did not; he worked there for us until fall; he went back and got his family in '67; he came in May '67 and went back in the fall and got his family.
Q Do you remember any of the members of that family? A I think there was one named Moses, and one Andrew as near as I remember, and it seems to me like there was a girl named Charlotte; there was about grown; and then there was smaller children, I don't remember, now, Mariah was his wife's name.
Q Was his wife Mariah or any of the members of his family with him when he first came in May '67? A No sir, he came by himself.

Moses Riley et al sup- 2

Q You know where he remained after May of '67 until he returned in the fall after his family? A He made a crop at our house, worked there, cultivated a crop for us, and then was back in the fall and made another crop in the year '68, and then in the fall of '68 he moved to Pryor's Creek, and I don't know much about them since they moved away.

Q That was your husband's old home place? A Yes sir, that was his old home place.

Q Do you know where Riley McNair went after his family in the fall of '67? A He claimed to go to Kansas, I don't remember, some where near Fort Scott as well as I remember.

Examined by Attorney Mellette:

Q Mrs. Thompson, about how old were you at that time? A I guess 38 or 9, I disremember.

Q Hardly, if you are 62 now? A Well, you can count back. That has been about 36 years ago? A Yes sir.

Q About 28 you mean? A Yes, that's it.

Q When were you married to Mr. Brown? A In '57.

Q Now was it '57 or '58? A '57.

Q Did you say awhile ago that it was '58? A No, I don't think I did.

Q What month were you married to Mr. Brown? A In November.

Q Where? A In Eastern Texas.

Q When did you go to Texas? A My parents moved to Texas when I was in my 16th year.

Q What year did they move to Texas? A In '54.

Q Do you ~~remember~~ remember that? A Yes sir.

Q You remember that it was '54? A Yes sir.

Q And what year did you come back from Texas? A We come back in '65, to Red River, and there we stayed a year and in the fall of '66 we come up here to the Cherokee Nation.

Q Your husband's mother was living with you on Red River in the Choctaw Nation in '65? A Susanna McNair? A She died in Eastern Texas; she was dead, before we come to Red River.

Q Your husband then succeeded to the place there in Saline District, the old McNair place? A Yes sir.

Q He was owner of it at that time? A Yes sir, and in

Q And in '65 you lived in the Choctaw Nation on Red River? A Chickasaw Nation.

Q What time in '65 did you come to the Chickasaw Nation? A We come in the fall.

Q How long after the War closed? A Why, the war closed about along in April wasn't it, that spring, and that fall we come to the Chickasaw Nation, and next fall we come on up here.

Q Now did you know a colored woman named Sophie Bryant? A No sir.

Q Did you know a colored man named Columbus McNair? A Yes sir.

Q When did you first see him there about the old McNair place? A He was down on Red River there, with Martin Thompson in '65,

and in the spring of '66 he left Martin Thompson and come up this way, and it was three years then before we heard anything more of him, and he come to our place here on Grand River.

Q You know that Columbus McNair left the Chickasaw Nation and said he was coming to the Cherokee Nation? A No, he didn't come to the Cherokee Nation; he claimed to be in ~~Kansas~~ those lower nations with John and Wirt Thompson, who lives in Texas; he was a cow-boy he claimed to us, during those three years.

Q You understand that Columbus McNair, who had been a slave on the same place that Riley McNair had been a slave didn't come to the Cherokee Nation until when? A It must have been '68.

Q Now as a matter of fact don't you know he came back in the

- spring of '66 to the old place there? A No sir, not that I know of.
- Q You don't know that he did or he didn't? A No; he left us there and we never heard of him any more for three years.
- Q Well then if he came to the old place and found this Riley McNair there, then you are mistaken about Riley McNair not coming until the spring of 1867? A No, it is the other way I guess; Lum must have stayed away until '69.
- Q Lum McNair stayed away until '69? A Yes, I think it was towards the latter part of the summer he come to ~~visit~~ our place to visit us, and Riley was living right here on Pryor's Creek then.
- Q Where did Columbus McNair come from at that time? A He claimed to come from a ranch below Fort Smith, in the Choctaw Nation, it seems to me.
- Q That was in '69? A Yes sir. As near as I remember; and he only come up on a visit, and went back and I don't remember how long before he come again.
- Q You know a Cherokee Indian named William Foreman, who testified in this case for this applicant, old Bill Foreman; did you ever know him; had a little store there close to the McNair place in 1866, you remember his having a store there? A No sir, I think I have seen the man, but I don't remember; he lived by the river above from where we lived.
- Q How far did he live from you, he lived on Lynch's Prairie? A Yes sir, it was eight or ten miles from us.
- Q He lived there after you got there in '66? A I don't know; we had been here several years it seems to me before I met him; I remember seeing him and remember the name.
- Q Now do you remember Mary McNair, that used to belong to Martin Thompson? A She once belonged to Susianna McNair.
- Q Well you remember her? A Yes sir.
- Q Where was she when you come back in '66? A She come up here with Martin Thompson from the Chicksaw Nation.
- Q With Martin Thompson? A Yes sir.
- Q Then she came back here in '66 with you and Martin Thompson? A Yes sir, if it is the Mary I am thinking of.
- Q Well, it is the aunt of Moses Riley? A Yes sir, she come back.
- Q She came into this Nation; she had been Susianna McNair's slave during the war? A I think so, I was ~~told~~ told that she was.
- Q And you brought her back in '66? A No, Martin Thompson.
- Q Well, she came at the same time you did? A Yes, she came at the same time we did, there was three families.
- Q And she came in the fall of '66? A Yes sir.
- Q And she was never put on the 1880 roll? A I don't know, she has been dead quite a while; at least I have been told it was, maybe it was her husband's name.
- Q Columbus Rogers? A Yes sir. That was his name; it seems to me I have been told she died.
- Q How long did you live on that McNair place when you came from Texas? A Until July, 1877.
- Q Then where did you move? A To the Verdigris country.
- Q Then you married to Mr. Thompson? A We married in --- and I moved right out.
- Q You have been married three times, Brown, McNair and Thompson? A Yes sir.
- Q You testified to these facts that you now testify to before the Kerns-Clifton Commission didn't you? A I guess I did; they had me at Claremore and here at Vinita.
- Q Did you testify before the Wallace Commission too? A No sir, I don't think I did.

Com'r Brookinridge: This will be filed as additional testimony in Cherokee Freedmen doubtful cases 258, 260, 261, 262, 263, 265, 266, 267, 268, 269, 270 and 441.

Moses Riley et al sup 4

Cherokee Representative, W.V. Hastings: The Representatives of the Cherokee Nation desire to give notice that they will offer additional testimony on Monday, June 10th, 1901.

M.D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this June 1st, 1901.



Commissioner.

Q

THE FIVE CIVIL
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JUN 1 1901

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ACI

F. D. 258

DEPARTMENT OF
COMMISSION TO THE FIVE CIVILIZED
FILED
MAY 31 1901

ACTING CHAIR

NOTICE!

In the matter of the application of Moses Riley et al for enrollment as a Cherokee Freedman.

Case No. D. 258

To Moses Riley

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Chelsea Indian Territory, on the following dates, to-wit: May 31st

A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 30th day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Davenport

Attorneys for the Cherokee Nation.

United States of America, }
Indian Territory, } s. s.
Northern District. }

I do solemnly swear that I delivered a true copy of the within notice to _____
on the _____ day of _____ A. D. 1901.

Subscribed and sworn to before me this MAY 30 1901 day of _____ 1901. J. C. Clark Notary Public.

By W. W. Hastings:

Canon now the representatives of the Cherokee Nation and respectfully protest against the present witness testifying for the reasons that the purpose for which the witness is to be introduced has been explained by the attorney for the applicant, and which is to be, first, to make a correction of what one of his own witnesses has testified, as he states, erroneously; and for the reason that the witness himself is present and should be called first and allowed to correct his own testimony; and second because it has been explained that additional testimony is desired to be given as to the time of the return of the applicant, after the case is closed on the part of the applicant, which will result in making the investigation interminable; and third, because this witness who is not desired to be introduced was present a number of days at Vinita where the application was made and was not at that time introduced; and fourth; after a case is closed it is not permissible to introduce additional testimony upon a point already inquired into.

By Commissioner Richardson:
G. R. Breakinridge:

The case is not as yet closed in a formal manner, and it is not, or has not been, the practice of the Commission in any of these cases to treat any of the cases as closed, down to this time. The Commission will not permit an abuse under the form of taking additional testimony, which would simply be a multiplication of testimony from the same source; but in frequent instances in conducting these cases it has been found advisable and proper to permit applicants and witnesses to correct their own testimony where they have alleged that they have made mistakes in certain particulars, and it is understood that in the present instance the purpose is to bring out certain circumstances which were not developed heretofore and which were calculated to produce an honest but erroneous impression as to facts. Therefore the examination will be permitted to proceed.

By Mr. Mellette: (of Jerry Butler)

Q You say you are 43 years old? A Yes sir.

Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.

Q Are you on the 1880 roll? A. Yes sir.

Q Do you know the applicant, Mose Riley? A. Yes sir.

Q Did you know Riley McNair, his father? A. Yes sir.

Q Do you know when Riley McNair, and this applicant and the other members of the family were in 1866? A. In the fall of 1866 my father and I was hauling corn from a place called the Dr. Thompson place of Bolins Ferry and uncle Riley McNair and Mose came through there and then in the summer of '67 me and Mose Riley and Columbus Rogers and Jim McNair all went back to Kansas after Columbus's wife who was Mose Riley's aunt.

Q Where did you find her in Kansas? A Found her in Garnett Kansas working in a hotel called the Bowls's hotel.

Q In '67? A Yes sir.

Q Did you see Columbus McNair in '67? A. Yes sir that was the first time that I saw him.

Q Going back to the fall of '66, you say you saw Riley McNair? A Yes sir. A. Yes sir.

Q Did you or did you not see any other members of his family in the fall of '66 in the Cherokee Nation? A. We went up there in the winter it was late in the winter, fall or winter, and staid all night at uncle Riley's.

Q Who was there then? A. His wife and children and himself.

Q In what year was that? A. In the fall or winter of '66, before we went back to Kansas.

By W. W. Hastings:

Q You say you are 43 years old? A Yes sir.
Q You were born then in 1858? A Yes sir.
Q You were 8 years old then in 1866? A Yes sir.
Q What relation are you to Mose Riley, the applicant? A Not a bit on earth.
Q What relation are you to his father? A. Not a bit.
Q You call him "uncle Riley"? A Just like we all do, call the old people uncle.
Q Were you at Vinita when Mose Riley made his application? A All through the enrollment.
Q You are sure you went to Garnett Kansas in '66? A No sir in '67.
Q What sized place was Garnett? A. Pretty good sized place.
Q Was there a rail road there? A. No sir this M. K. & T. was at Ottawa; we went there to Ottawa after Columbus' mother and that was the first time that I ever saw a rail road—they was built to a little creek called Magazine.

COLUMBUS McNair, called and sworn as a witness testified as follows

By Mr. Hollister:

Q Have you given testimony in this matter heretofore? A. Yes sir.
Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.
Q Are you on the roll of 1880? A. Yes sir.
Q You stated in your testimony heretofore in this case that in the fall of 1866 Mose Riley the applicant went back to Kansas to bring his mother and the rest of his family back to the Cherokee Nation, do you want to make any correction of that statement? A. I went up in the spring like of '66, left the Chickasaw Nation in March '66, first year after the war, and then went up through into Kansas and that fall Mose Riley and Jerry Butler came up there.
Q Your former statement was correct then? A. Yes sir, that what I thought it was.
Q Who came with Mose? A. Jerry Butler.
Q Who did he bring back with him? A. I supposed he brought his mother back, but he says now that it was his aunt that he brought back.

By the Commission:

Q Did you see him when he got back? A. No sir I wasn't here then.
Q Is his mother any kin to you? A. To my first wife.

By Hastings:

Q What relation are you to Riley McNair? A. ^{Mc}He is my uncle.
Q Did you say anything in your first testimony at Vinita of Jerry Butler coming up to Kansas with Mose? A. Yes sir I think so.
Q Did you ever work for Werk Thompson after that time? A I dont know anything about Werk Thompson, I worked for Martin Thompson.
Q Did you see Mose's mother there when you went up to Kansas? A. I didn't see his mother, I was at my sisters there about three miles from town and wheever Mose and them came after was in town.
Q Is that all the family that you saw up there? A. They was all down here but that one I guess.
Q Are you sure that it was not '67 that you saw Mose come up there? A No sir I think it was in '66.
Q Did you see all those people here, Mose and Andrew and the others in the spring of '66 down here? A. I think it was, but they says now it was in the fall.
Q Are there any more corrections that you want to make? A. No sir.

By the Commission:

Q You say you lived in the Chickasaw Nation until the spring of '66?

A Yes sir in March

Q And did you then go right through the Cherokee Nation into Kansas?

A Yes sir.

Q You have that fixed definitely in your mind? A. Yes sir, I went up right after the war.

Q Did you see Moses Riley up there? A. Yes sir that is what I think, but they says now it was later than that.

Q Who did you see in Kansas in the spring of '66? A I dont know who all.

Q How long did you stay up there? A. Along about—must have been Sept^r tember or October when I got back.

Q When was it you remember seeing Mose Riley up there in Kansas? A. In the fall.

Q Of '66? A Yes sir.

Q You didn't see him there in the spring of '66? A. No sir.

Q But you did see him there in the fall? A. Yes sir.

Q Did ~~you~~ he come up there when you were there? A. Yes sr.

Q Who did you see besides Mose~~es~~ in Kansas? A. Jerry Butler.

Q Any more of the Riley people? A. No sir.

Q Any of the women of the family? A. No sir.

Q Did you see Mose' mother? A. No sir I didn't see them, I was three miles in the country, three miles from town with my sisters and they said they came up there after them.

Q After who? A. I thought is was for Mose' mother but they said now that it was for his aunt instead of his mother.

Q You never did know of your own knowledge then who they came for? A. No sir.

Q You are only testifying then of the people you actually saw up there and what they told you? A. Yes sir.

Q Did you go back to Kansas after that fall? A. Yes sir.

Q When? A. That winter.

Q When was it in the winter? A. I cant tell you what time, I went back that winter and come back the next spring like as well as I can recollect I cant remember just what month it was.

Q How long did you remain when you come down in the fall of '66? A. I didnt stay here more than two or three weeks.

Q And then went back to Kansas? A. Yes sir.

Q To Barnett? A. Yes sir.

Q When did you get back to Kansas after you came back from Barnett? A. Some time after Christmas any way

By Q Do you mean to tell the Commission that you were up there from the H. Spring of '66 and remained at Barnett all of '66 and within three miles of Barnett at your sisters and that you dont remember now of seeing Mose Riley's mother who was your aunt? A. I said that when they came up there I was three miles from town and I was with my sister and I supposes that they came up after Mose Riley's mother but that they says now that they came up after his aunt.

Q And you say now that you dont remember seeing Mose Riley's mother in those 3 or 4 months up there? A. No sir I didn't

Q You are positive of that now? A. Yes sir.

Q Do you know any of the folks that were living down here then? A. No sir I dont.

Q You testified that you came to the McNair place when you were going through from the Chickasaw Nation to Kansas in that spring of '66? A. Yes sir.

Q Dont you know who you saw there in that spring of '66? A. The first of the summer it was that I saw them in the Cherokee Nation

Q That was not the way you testified when you were at Vinita was it?

Q I dont know what I testified at Vinita, Icant remember all they asked me there.

Q Didn't you say that you saw this family there in the spring when you were coming through? A. I thought it was in the spring but they says now that it was in the fall.

Q You say you didn't work for Verk Thompson? A. No sir.

SUPPLEMENTAL 5.

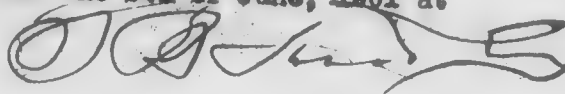
By Com'r Breckinridge,-

This testimony is additional testimony in and will be filed in Cherokee Freedman Doubtful cases, #258, #260, #261, #262, #263, #265, #266, #267, #268, #269, #270 and #441.

+++++

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the proceedings in the above cause and that the same is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 6th of June, 1901 at
Chelsea, I. T.



Commissioner.

10

JUN 6 1901

[illegible]

FD 258

28

F. D. _____

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on _____

by delivering a true copy thereof on the
_____ day of _____ A. D. 190_____

Given under my hand this _____
day of _____ A. D. 190_____

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
_____ day of _____, 190_____

Mittie Smith

Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to _____

_____ on the _____ day of _____ A. D. 190_____

Subscribed and sworn to before me
this _____

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
4 1901

[Signature]
ACTING CHAIRMAN.

NOTICE!

IN THE MATTER OF the application of Moses Riley
for enrollment as Cherokee Freedmen:
Case No. F. D. 285
To Moses Riley or to Mellette & Smith his attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Tulsa Indian Territory, on October 4th, 1901. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this the 3rd day of October, 1901.

L B Bell

W. W. Hastings

Attorneys for the Cherokee Nation.

File with case of

Moses Riley et al C.F.D. # 258

Department of the Interior,
Commission to the Five Civilized Tribes
Wash., D. C. October, 4th 1901.

SUPPLEMENTAL EXHIBITION in the case of Moses Riley et al, C. F. D. #258.

Applicants:

W. H. Hastings, attorney for the Cherokee Nation.

W. H. Hastings, attorneys for the applicants.

(Witnesses placed under the rule.)

W. H. HASTINGS being first duly sworn by Commissioner T. B. Needles
deposes as follows on the part of the Cherokee Nation:

By Hastings:

Q What is your name? A R. L. Martin.

Q What is your age? A 54.

Q What is your post office address? A Pensacola, I. T.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q What is your father's name? A Joseph L.

Q Where did you live before the war? A We lived in the Cherokee Nation about 20 miles below here.

Q On this side or the other side of Grand river? A On the west side.

Q Did you know Jack McNair? A I did.

Q Did he own a farm before the war? A Yes sir.

Q Where was it? A On the east side of the river about 3 or 4 miles from where we lived.

Q Was that McNair any relation to you? A Yes sir, first cousin.

Q Did you know a slave that belonged to the McNair's by the name of Riley McNair? A Yes sir.

Q Did you know him before the war? A Yes sir, he belonged to us when the war broke out.

Q Belonged to you? A Yes sir.

Q When did you come back to the Cherokee Nation after the war? A November of '66.

Q Do you know when Riley McNair returned with his family to the Cherokee Nation after the war? A Yes sir.

Q Tell the circumstances about it? A December '67 I was on the road going to Kansas and we met them between Oswego and Chatopa and he said he was going home.

Q Did you stop and talk with him? A Yes sir.

Q Did he have his family with him? A Yes sir.

Q What part of December of '67 was that? A Early part of December.

Q You say he had belonged to your father when the war broke out? A Yes sir.

Q And you say you met him there in Kansas and had a talk with him as he was going back to the Cherokee Nation? A Yes sir.

Q Did he say where he had been? A I don't know as he did.

Q You say you met him between Oswego and Chatopa Kansas? A Yes sir, between the two places, I don't know just the place, but between those two towns somewhere.

By Mr. Needles:

Q When did you come back to the Cherokee Nation? A November '66.

Q How can you remember that? A I don't know—just because I remember

Q Did you have anything to impress it on your memory as to when you came back? A I don't know as I did, we had it in a book set down.

Q What did you set it down for? I don't know, my father set it down, you will have to ask him.

Q What did he set it down for? A I don't know.

Q You didn't have to put that down did you for any purpose? A No sir, my father set it down, but he always kept track of things.

- Q Did he set down when he left the Nation? A Yes sir.
- Q Where is that book? A I don't know where it is now.
- Q Are you testifying about what you recollect or what you saw in the book? A What I recollect.
- Q Not by the book then? A No sir.
- Q You remember positively that you come back in '66? A Yes sir.
- Q There was no particular reason for remembering that year '66 was there? A Yes sir.
- Q What was it? A Everything that happened made me remember it.
- Q You were young at that time? A Yes sir.
- Q Where did you land when you came back? A Place called Greenbriar.
- Q How old were you? A I was born in '47.
- Q Can you remember about how old you were in '66? A 19.
- Q Where did you locate when you first come back? A Greenbriar.
- Q You went up in Kansas when? A The next year, '67.
- Q And then you met Riley McNair? A Yes sir.
- Q What kind of a team did he have? A Pony team, I think, not certain about that.
- Q What kind of a wagon did he have? A Four wheeled wagon.
- Q You remember that do you? A Yes sir.
- Q Now, he didn't have a Texas dump card with two wheels? A I don't think he did.
- Q Do you know he didn't? A He might have had one in his wagon.
- Q You know that he was not driving a Texas dump cart with two wheels and that he did not have a four wheel wagon with him? A I didn't see any two wheel wagon.
- Q Who was with him? A He said he had his family with him.
- Q Any one else? A I don't recollect.
- Q You remember of no one else being along? A There might have been some one else along.
- Q Why don't you remember? A There was people along.
- Q Who was along? A His wife and children I suppose that is what he said.
- Q How many children? A I didn't count them.
- Q How many wagons? A Only one as I remember.
- Q Do you remember what children were along? A No sir I don't.
- Q Were they men or women? A Children.
- Q Whoses children? A I don't know except that he said they were his family.
- Q They were all small children were they? A I don't know as they were all small.
- Q Did he have any children before the war? A Yes sir.
- Q Who? A Moses and two or three others.
- Q Do you remember them? A No I don't remember them as good as my own brothers and sisters.
- Q I don't expect you to remember them that well, but do you remember them at all? A Yes sir? A Yes sir, but I can't swear to any particular children he had along, only he said he had his family.
- Q It was in December of '67 was it? A As well as I recollect.
- Q How do you recollect it? A It was getting pretty cold.
- Q Is that why you say December? A Might have been in November.
- Q Then you don't remember when it was, positively, at all? A I don't know the date exactly.
- Q When did you come back from Kansas after that? A We was gone I guess a couple of weeks after that.
- Q Where did you go? A Garnett.
- Q How did you happen to go there? A Drove some cattle up there.
- Q You were driving cattle at the time were you? A Yes sir.
- Q Why was Riley McNair's master just before the war? A I told you once he belonged to my father; he had him in possession; he did belong to my aunt, Mrs. McNair and father owned him after that.
- Q What place did Riley McNair live on at the breaking out of the war?

A I don't know, my father had two or three places.
 Q You don't mean to say your father owned Riley McNair at the breaking out of the war? A Yes sir.
 Q What was your father's name? A Joe L. Martin.
 Q Was he a Cherokee citizen? A Yes sir.
 Q What relation is Susanna McNair to you? A My aunt.
 Q Do you know a fellow named Jerry Butler? A Not very well.
 Q Was he along with Riley McNair when you met him? A I don't remember.
 Q Why don't you remember that? A I guess because he wasn't along.
 Q Do you know this man here? (pointing) A I take it to be Hose Riley.
 Q Was he along when you met them up there? A I can't swear that.
 Q He was about as old as you were wasn't he? A How old is he?
 Q About 51. A He might have been along.
 Q I would like to have you state to the best of your recollection, to the best of your judgment as to whether he was along or not, he is the applicant here now for enrollment, and I would like to know if he was along? A I don't remember if he was or not.
 Q What place did they locate on when they came back here? A I don't know as I know for certain, the first place I saw them was owned by Pete Conche's.
 Q How long after that did you see them on Pete Conche's place? A A good while, when I come up there it must have been in '69 or '70.
 Q Is it not a fact that Susanna McNair owned Riley McNair at the breaking out of the war? A She was dead long before the war broke out.
 Q Now don't you know that Susanna McNair owned Riley McNair at the breaking out of the war, and that she died in Texas after the war? A I don't recollect about that, anyway Riley McNair was with us when the war broke out, and we had him for several years.
 Q You say Susanna McNair died before the war? A I don't remember.
 Q What made you say then that she died long before the war? A Well I don't remember when she did die, but I don't know about that, but I know about Riley, I can prove by other people that we owned him and that when the war broke out he was living with us.
 (By Hastings)
 Q Mr. Martin, you said that when you met Riley McNair he had some children along; but that you don't know who they were? A Yes sir he said he had his family along and was moving back home.

CHARLES GLASS, being first duly sworn by Commissioner T. B. Needles, testified as follows on the part of the Cherokee Nation through Simon R. Walkingstick as interpreter:

(By Hastings)
 Q What is your name? A Charles Glass.
 Q Are you a Cherokee? A Yes sir.
 Q Was you in the war? A Yes sir.
 Q Where were you mustered out? A At Fort Gibson.
 Q When? A In the year 1865.
 Q Where did you come to after you were mustered out? A I moved out in Saline district near a man named Howell.
 Q How far was that from the old Jack McNair place? (No response)
 Q Did you live in Saline District in '65? A I think I had crossed the river then.
 Q In '65, the same year that you were discharged? A Oh, I was living in Saline then.
 Q How far from the McNair place? A About 70 ~~years~~ yards.
 Q When did you move away from there? A I didn't stay there but a little while.
 Q Was it that year or the next year that you moved from there? A That year

Q Where did you move to then and how long did you stay there? A To Joe Martin's.
 Q How far was that from the old McNair place? A About two miles.
 Q Where did you live in '86? A At this Joe Martin's place.
 Q Was you ever about the McNair place in that year? A Yes sir I would go there frequently.
 Q Did you see any darkies making a crop on the McNair place in '86?
 A No sir I didn't see any.
 (By Mellette)
 Q Could you see good in 1866? A Yes sir I could see good then.
 Q Can you talk English? A No sir.
 Q Can you read? A No sir.
 Q How old are you? A 79 years old, I think.
 Q Did you live in a house when you were within 70 yards of the Jack McNair place in '85? A Yes sir.
 Q Whose house was it? A Me and my family were keeping house.
 Q Whose house was it? A Why it belonged to a man named Owl.
 Q Is it not a fact that Owl's house was a mile and a half from the Jack McNair place? A Yes sir this Joe Martin place was about a mile and a half from there.
 Q Ask him if the Owl house is not a mile and a half from the Jack McNair place? A No sir.
 Q How far is it? A About 70 yards.

W. B. RIDER, being first duly sworn by Commissioner T. B. Needles, testified as follows:() On the part of the Cherokee Nation)

(By Hastings)
 Q What is your name? A W. B. Rider.
 Q What is your age, Mr. Rider? A 54 years old.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Where do you live? A In the Territory, on Pryor Creek, seven miles south of Chelsea.
 Q When did you begin to live there after the war? A I went there in the spring of '67.
 Q Did you, at any time, either before or after the war, know a colored man named Riley McNair who had some sons, Mose, and Andrew Riley and others? A Yes sir I knew him.
 Q Do you know when they located there on Pryor creek? A Yes sir to the best of my recollection they located there in the fall of '68.
 Q Where have you continued to live since the spring of '67? A Right on the same place I first settled on.
 Q How far did they locate from you? A On a tract of land, it is four or five miles from me.
 Q Was the country thickly settled at that time? A No sir.
 Q Is it prairie or timber? A Timber and prairie both, there is timbered hills running through.
 Q Is the country generally timber or prairie there? A South east it is more prairie than timber.
 Q Do you know whether Riley McNair or any of his sons were arrested after that or not? A Yes sir.
 Q Do you know what they were charged with? A Hog stealing.
 Q From whom? A My brother Alex Rider.
 Q Is he a Cherokee citizen? A Yes sir.
 Q Were you at the trial? A No sir but I went with the Sheriff and helped arrest them, I wasn't at the trial.
 Q Cherokee Sheriff? A Yes sir.
 Q About when was this? A I think this was in '71 that they were arrested.
 (By Mellette) Wasn't it in the spring of '68 that they located on Pryor creek instead of the fall? A No sir I think not.

Q Are you certain that it was in the fall instead of the spring of that year? A Yes sir.

Q How far is that from what is known as the Old Jack McNair place? A Somewhere between 18 or 20 miles.

EDWARD BYRD, being called and having been first duly sworn by Commissioner T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Hastings)

Q What is your name? A Edward Byrd.

Q What is your age? A I am 57 years old.

Q What is your post office address? A Chelsea, Cherokee Nation, Indian Territory.

Q Are you a citizen of the Cherokee Nation? A By marriage, yes sir.

Q When did you first move to the Cherokee Nation? A I came to the Cherokee Nation in June or July of 1868.

Q Where did you locate? A On Pryor creek.

Q How far from the town of Pryor Creek? A I presume it was 10 or 12 miles up the creek, I think.

Q Did you afterwards know a colored man by the name of Riley McNair who had some sons, Mose, Andrew and others? A Yes sir.

Q When did you first know him? A I first knew him in the fall of '68 is my recollection.

Q Where was he? A He moved there on Pryor creek, I think he came from Grand river over there, he claimed he did.

Q What time did he move there? A Some time in the fall of '68.

Q Was he living on Pryor creek when you moved there? A No sir, I knew every one around there and he was not there.

Q How far did he locate from you at that time? A I presume a mile—about a mile.

Q Mr. Byrd, were you ever in attendance upon a Cherokee Court at a time when Riley McNair and one of his sons was arraigned? A Yes sir I was a witness in that case.

Q Do you know what they were charged with? A Larceny.

Q Stealing from whom? A Alex Rider.

Q Do you know what was done—did they go to trial?

(By Mellette)

" I object to everything that is of record or ought to be of record in that case; if they were tried and convicted or tried and acquitted, the record is the very best evidence and they must show it by the record."

(By Hastings)

" I will state to the Court that ordinarily the position of Mr. Mellett is correct, but in this case I have made search for the records and there are no records, as no records of these early proceedings of the Court were made, and this is the best evidence there is."

(By Mr. Mellette)

" That does not obviate the the necessity of the rule; if the record was destroyed by fire then this would be admissible, but first it must be shown that they were so destroyed. This was a court of record and they cannot prove its proceedings orally unless they first show that the records have been destroyed."

(By the Commission)

" No there is no testimony here to show that the records were lost or that they were ever made "

(By Hastings)

" This witness is now upon the stand and the counsel for the Cherokee Nation offer this testimony in and say to the Commission that unless they establish that there is no record, that they do not desire that this oral testimony be considered, and that makes this testimony admissible."

(By the Commission)

" Note the objection and let the witness proceed and it will go for what it is worth. "

(By Hastings of witness)

Q Did you go to the trial? A Yes sir.

Q Did they examine any witnesses? A No sir, I wasn't examined

Q What was done with the case? A They proved there that they were not citizens of the Cherokee Nation.

(By Mellette)

Q Did you hear the evidence? A I was in the room when they were proving it.

Q Were you sworn as a witness? A I was summoned as a witness is all.

By Mr. Mellette:

" I desire again to make a formal objection to the testimony here given that they proved that they were not Cherokee Citizens "

(By the Commission)

" I don't think it is proper testimony.

(By Hastings) (of witness)

Q What was done with the case? A They proved that they wasn't citizens of the Cherokee Nation before the Court and the case was thrown out for want of jurisdiction and consequently I wasn't sworn to testify in the case.

(By Mr. Mellette)

Q Now Mr. Byrd, they proved that first did they, before the case had been proved against them; the defendants introduced their testimony before the Government had proved their guilt? A Yes sir.

Q Did you ever in your life hear of any other case being tried in that way? A I don't know as I did.

Q Did you ever hear of a case being tried by the defendant introducing their testimony before the Cherokee Nation had introduced its testimony to show them guilty? (No response)

Q You were summoned as a witness for the Cherokee Nation? A Yes sir

Q You were not put on the stand? A No sir.

Q Were any witnesses for the Cherokee Nation put on the stand? A I don't know.

Q Then there was no trial? A Only that they introduced witnesses to show that they were not citizens.

Q Did they have any jury? A I think it was summoned there.

Q Did they empanel the jury? A I think they did.

Q Did the jury go out and decide the case? A No sir I don't think they did.

Q How did they get rid of the case? A The judge threwed it out, I think Charles Rogers was judge.

Q Is it not a fact that the jury went out and decided the case? A I don't think it did.

Q The jury was empanelled you say? A It was summoned and in the seats.

Q Who gave the evidence? A I don't know.

Q Did they examine witnesses for the defence? A Yes sir, I think their attorney was Joel Mayes.

Q The Cherokee Nation didn't introduce any witnesses? A No sir I don't think they did.

Q What did the defendants introduce any evidence to prove want of jurisdiction when the Cherokee Nation had not yet proven them guilty?

(By Hastings)

" The Cherokee Nation objects to that question because it is purely argumentative and because it calls for an opinion of the witness "

(By Mellette of witness)

Q Is it not a fact that you were not present at that time at all?

A No sir.

Q Is it not a fact that you were sick in bed at the time? A No sir

I went there.

Q You swear that you were at the time they were tried for stealing hogs from Alex Rider? A Yes sir.

Q And that before any proof was introduced against these man they showed that they were not citizens of the Cherokee Nation? A That is my recollection.

Q And do you consider your recollection as correct? A Yes sir.
(By Hastings)

Q Good enough to swear to? A Yes sir.

LEWIS WOLF being called and sworn by Commissioner T. B. Needles testified as follows on the part of the Cherokee Nation through Simon R. Walkingstick as interpreter.

(By Hastings)

Q What is your name? A Lewis Wolf.

Q How old are you? A Something near 40 about 48.

Q Are you a Cherokee citizen by blood? A Yes sir I am a full blood

Q Where do you live? A I live in Cooweescoowee district.

Q How long have you lived in Cooweescoowee district? A I think I came here in '68 or '9 somewhere along there

Q Did you ever know a colored man named Riley McNair, father of Mose and Andrew Riley? A Yes sir I knew him, he had been a slave of Dr. Mc Nair.

Q Was he ever at court in Cooweescoowee district where he was brought up for trial? A Yes sir.

Q Were you summoned there in any capacity? A Yes sir as a jury man.

Q Who was the judge? A Chaires Rogers

Q What was done with the case? A Just turned him loose.

Q Do you know why? A He proved that he wasn't a citizen of the Cherokee Nation, that he had returned too late to entitle him to citizenship.

Q They were not tried? A No sir.

(By Mellette)

" I enter the same formal objection and ask that this testimony be stricken out"

(By Mellette of witness)

Q Who proved that? A I can't state as to who proved these facts as I was outside ; I had been ~~selected~~ summoned but not selected on the panel to try the case.

Q You didn't hear the trial did you? A I was on the outside; as soon as the jury was selected I stepped out, I was left out and had no business there.

Q Then you don't know what occurred inside of the court house do you? A Yes sir I know they turned them loose, that is about all I know.

Q All you know is that they were turned loose and left the courthouse? A Yes sir.

Q What year was that? A I am not able to state the exact date but I think it was in 1872.

Q Were you not too young to be a jurymen at that time? A I think I was old enough; I had been summoned as a jurymen anyway.

Q Did the jury go out in a room and decide the case? A No sir.

Q How do you know? A I saw him go in and then I saw him leave.

Q Saw who? A This man Riley McNair, colored man.

Q That is all you know about it? A That is all.

Q You dont know how they happened to be turned loose? A I didn't hear the proceedings in the court room but it was said by everyone there that he was turned loose because the court has no jurisdiction over him.

By Non'r Needles:

This will be filed in the following cases: Cherokee Freedman D. 251,
D. 260, D. 261, D. 262, D. 263, D. 264, D. 265, D. 266, D. 267, D. 268, D. 269,
D. 270, D. 271, D. 441, D. 704, D. 595, D. 596, D. 551, D. 569 and
D. 429.

=====

Chas. von Weise, being first duly sworn, states that as stenographer
to the Commission to the Five Civilized Tribes he reported in full
all the testimony and proceedings in the above cause, and that the
foregoing is a full, true and correct transcript of his stenographic
notes therein.

Subscribed and sworn to before me this the 7th of October, 1901.

Chas. von Weise

Commissioner.

Executive Office Cherokee Nation,

Tallequah Ind.Ter.

I.B.W.Alberty, assistant Executive secretary
of the Cherokee Nation do hereby certify that I have examined the
Court records of Coowasee District Cherokee Nation to find the
record of the cases Cherokee Nation Vs Riley, McHair, Mose Riley and
Andrew Riley, said to have been tried in or arraigned for trial in
said District in the early 70's, but I fail to find any account of
any such case, I find no record of trials had in said District Court
earlier than 1874; that the records of said District have been filed
in this Office by law and is in my custody.

Given under my hand and the seal of the Cherokee Nation this the
31 st day of October 1901.

B. W. Alberty

Assistant Executive secretary,

Cherokee Nation.

5 D 958

cc.

RECEIVED
MAY 20 1892

[Signature]

CHIEF CLERK

RECEIVED MAY 20 1892

P. D. 258-

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190...

Given under my hand this.....
day of..... A. D. 190...

Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the

..... day of *April* 1902
Walter Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

.....
on the..... day of A. D. 190...

Subscribed and sworn to before me
this

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
APR 2 1902

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Moses Piler
for enrollment as Cherokee Freedmen:
Case No. F. D. 258

To Moses Piler, or Mallette & Smith, Att'ys., Vinita, I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of **Muskogee, I. T.** Indian Territory, on April, 3, 1902. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this March, 5, 1902.

L B Bell

W. W. Hastings
Jess. Davenport
Attorneys for the Cherokee Nation.

A 7-D 25-8

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

APR 29 1902



ACTING CHAIRMAN

State of Kansas, } ss.

Woodson County,

I, A. C. Woodruff, Clerk of the District Court within and for said County and State above named, do hereby certify that the foregoing is a full, true and correct copy of the Case of The State of Kansas v s Boothe Hawks was continued from the October term, 1868 to the April Term 1869, of the District Court of Woodson County Kansas. I further certify that Thomas Daniels and Ben Landrum were witnesses in said case.

as the same appears on record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 25 day of

April 1902

A. C. Woodruff Clerk.

By D. C.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I.T., May 19, 1908.

In the matter of the application of Moses Riley for the enrollment of himself and child as Cherokee Freedmen.

SUPPLEMENTAL TO D-258.

APPEARANCES:

Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

J. M. JOHNSON, being first duly sworn, testified as follows:

MR. HASTINGS: What is your name? A J. M. Johnson.

Q What is your postoffice? A Garnett, Kansas.

Q What is your age? A 50 years old.

Q How long have you been a resident of Garnett, Kansas? A Since August 15, 1859.

Q Were you living there for a few years after the war? A Yes, sir, I have lived there ever since '59.

Q Did you know a colored man up there by the name of Riley McNair? A I did, yes, sir.

Q Did you know any of his family? A I knew the boys, all of the boys, and the old gentleman.

Q What were some of the boys' names? A The oldest was Mose, and they was Andrew, Frank, Jess, and Jerry.

Q You know whether he had any girls or not? A He did.

Q Did you remember her name? A I couldn't tell you their names only just the one that married first.

Q Well did one marry? A Yes, sir.

Q Who did she marry? A She married a man by the name of James Curis.

Q She marrynthere in Kansas? A She did.

Q How far did they live from you? A They lived about two miles and a half.

Q Now how long did you continue to know them up there in Kansas after the war? A I knew them from the time that they came there in '64 until they left Kansas.

Q When did they leave Kansas? A Old man McNair left in the spring of '67 and the family left in the fall of '67.

MR. SMITH: What time, what month in the year of '67 did the old man leave? A I couldn't tell you; it was sometime along about March, it was after they had prepared to plant their crop there in the spring of '67.

Q What sort of a crop were they preparing to plant? A Corn.

Q When did they prepare ground for corn in that community at that time? A March.

Q Ever any earlier or later than that? A Some of them might have been later, and some of them earlier.

Q Some earlier and some later? A Yes, sir.

Q So you have no definite recollection as to the month the old man left? A No, sir, I couldn't tell you any further than it was along about the first of March.

Q Might have been sometime in February, as to the exact date? A It might have been the latter part of February, but I don't think that it was.

Q Well why don't you think so? A Because the time they prepared to begin their spring plowing for corn.

Q Well how much did he plow? A There was about fifteen or twenty acres about as much as any of them had at that time.

Q Well now do you know that just because that was the custom or do you know what he plowed? A I don't know what amount of land he plowed.

Q Well when did you first know the old man, where did you first see him? A When he first came to the county in '84, I think that was about the time all of those people came up from this part of the country.

Q Well now are you testifying as to the distinct recollection of when he came or upon your recollection of when a lot of people came there? A Upon his coming.

Q You remember his coming? A Yes, sir.

Q Without any reference to anybody else? A No, sir, not in particular.

Q How old was the one you called Mose at that time? A Well I suppose he was about fourteen or fifteen years old.

Q Which was the next oldest to Mose? A I don't know.

Q Now what makes you think it was in '87 that he left there? A From the events and the dates of things that occurred at that time.

Q Well what occurred? A The time that the mill was moved from off the creek there where they were located.

Q Which was the first the old man's going out or the moving of the mill? A The old man's going out.

Q How much? A He went out the spring before the mill was moved in '88, just a year before the mill was moved from there.

Q Whose mill was it? A Stewart's.

Q Stewart's mill? A Yes, sir.

Q Where is that mill now? A It was moved from Garnett to Erie.

Q How long ago? A It was moved in '88.

Q Well is it up there in Erie yet? A Sir?

Q Where is it now? A I couldn't tell you.

Q What did you have to do with the moving of the mill? A Nothing at all, sir.

Q Well what fixes it in your recollection that the mill was moved in '88? A Well a relative of mine that was working in connection with the mill at the time.

Q Well in what way does that fix it in your mind? A The place that they resided and the time that they took up their residence where those colored people moved from.

Q Well now that's been how long ago, now, since it was moved? A Sir?

Q It's been thirty years ago, hasn't it? A Over 30.

Q Well have you ever had occasion to think about when they left there until now? A Not until my attention was called to it, not to fix the time.

Q When was your attention called to it? A Last week.

Q Well did you know when your attention was called to it when they left? A Not till I had freshed my memory and fixed the date.

Q How did you refresh your memory? A By the time that that mill was moved and things that occurred at that time.

Q Well how did you find out the mill was moved in '88? A From the records.

Q Did they keep a record of moving mills? A I keep a record of the real-estate when it changes hands.

Q You are a real-estate man? A Yes, sir.

Q What sort of a record was it that they had of moving the mill? A The land the mill was situated on was sold to other parties.

Q So when you were interrogated upon the subject you went to look at the record to see when the mill was sold; to see what date that mill was moved? A Yes, sir.

Q How did that help you to remember the time that the old man McNair left there? A The parties that left moved from the mill, over where the mill there was, over to the place that McNair moved from, relative of mine.

Q Well that would assist you to remember that the mill was moved after Riley left there? A Yes, sir.

Q Well how did it assist you in knowing how long after? A Because I know that he left there the year before the mill was moved.

Q How did you know that? A From dates I know that he moved and left there the year before the mill was moved.

Q Well how do you know that it was just a year? A Because the time that I associate with this, and business transactions with those people.

Q Well there was no connection between Riley's going from there or about the mill's being moved; one didn't have anything to do with the other? A Nothing but Riley's folks worked there at the mill.

Q That was all the connection there was between those two facts?

A Yes, sir.

Q Well your attention hadn't been called for some thirty-five years to this proposition, had it? A No occasion for it.

Q Well now did you remember of your independent recollection that Riley all this time - that Riley had left there just a year before - McNair - just a year before the mill was moved? A Yes, sir, I know that he moved away from there the year before the mill was moved.

Q Might it not have been two years before the mill was moved? A Couldn't have been.

Q Or three? A No, sir.

Q Well now how did you happen to keep that in your mind all this thirty-five years, that Riley went away from there; he was just a colored man, wasn't he, that lived in the country? A Plenty of them, yes, sir.

Q And he went away from there? A Yes, sir.

Q And a while after that a mill was moved? A Yes, sir.

Q Well now how did you keep those two dates associated together, that one was a year before the other, all this time? A Just the same as I would any other occurrence.

Q Who else went away from there a year before that mill was moved? A None of them colored people that I knew of unless it was this son-in-law of Riley's, married that girl.

Q He went away from there a year after the mill was moved? A Well there was some of the Bean's.

Q Just one year afterwards? A Yes, sir. - No, the same year, they went the same year that McNair did. Sandy Bean moved the same year that McNair did.

Q Well now, Mr. Johnson, that's the best of your recollection at this time - that it was a year after Riley went that the mill was moved? A Yes, sir.

Q Can you swear positively? A Well I think so, yes, sir.

Q You think you can? A Yes, sir.

Q Still you may be mistaken about its not being more than a year from the time Riley left until - A Can't be mistaken.

Q Couldn't be mistaken? A No, sir, because I know when these people moved into the buildings that Riley moved out of and I know when he moved out and when they moved in.

Q Well when who moved in? A An uncle of mine.

Q What was his name? A Spriggs, James Spriggs.

Q Where is he living? A He is living in Barber County, Kansas.

Q Well now then, old man Riley left, he went off somewhere, of course you don't know of your own personal knowledge where he went?

A No, sir, I don't know.

Q And in the same year that he left his family followed him? A Yes, sir, and the boys.

Q These boys that you mentioned? A Yes, sir.

Q And the daughter who married Curlis? A I think that he left there.

Q You say the oldest one of those children was about fourteen or fifteen years old? A I think so, about my age.

COMMISSION: This testimony will be filed with and made a part of the record in the following freedmen cases: Ophelia Thompson et al, D-271, Riley Curis et al, D-279, Julius Curis, D-280, Lettie Johnson, D-282, Delilah Johnson et al, D-287, Fannie Scott et al, D-288, Jerry Riley et al, D-283, Frank Riley et al, D-282, Jesse Riley et al, D-281, Andrew Riley et al, D-280, Elizabeth Malton et al, D-241, Carrie Gibson, D-704, and Moses Riley et al, D-288, the latter being the case at bar. It appears from the records of this Commission that all of the above applicants are represented by Mellette & Smith, who were present at the hearing.

6

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger

Subscribed and sworn to before me this 23rd day of May, 1902.

J. R. Kauter
Notary Public.

about 1000 ft. above the
level of the sea. The
rocks are of a light
color and are very
soft. They are
very porous and
are full of holes.
The holes are of
different sizes and
are very deep.
The holes are of
different shapes and
are very deep.
The holes are of
different shapes and
are very deep.

(1000 ft.)

1000 ft.

1000 ft.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Mose Riley, D 258;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of ~~Moses Hartwire~~, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
(SEAL) Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Executive Office Cherokee Nation,
Tahlequah Ind. Ter.

I, B.W. Alberty, assistant Executive secretary of the Cherokee Nation do hereby certify that I have examined the Court records of Cooweescoowee District Cherokee Nation to find the record of the cases Cherokee Nation Vs Riley McNair, Mose Riley and Andrew Riley, said to have been tried or arraigned for trial in said District in the early 70's, but I fail to find any account of any such case, I find no record of trials had in said District Court earlier than 1874; that the records of said District have been filed in this Office by law and is in my custody.

Given under my hand and the seal of the Cherokee Nation this the 31st day of October 1901.

B. W. Alberty

Assistant Executive secretary,
Cherokee Nation.

(SEAL)

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., January 30, 1903.

I, the undersigned, a member of the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and correct copy of the original offered in evidence in the matter of the application for enrollment of Cherokee F. D. 258.

C. R. Heciminger
Commissioner.

Jack

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, this 25 day of April 1902

(SEAL)

By-----D.C.

I, the undersigned, a member of the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and correct copy of the original offered in evidence in the matter of the application for enrollment of Cherokee F. D. 258.

C. R. Beckwith.
Commissioner.

Aug 26 Indian Territory, 1911

Received of the Commission to the Five Civilized
Tribes one copy of the testimony in Chas. D.

258 Mason & Co. Inc.

Mason & Co. Inc.
Attorney for applicant.

a7me

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Katie Ridge, et al., as Cherokee Freedmen, consolidating the ap-
plications of:

Katie Ridge,	Cherokee Freedmen	D 295
Cornelius Ridge, et al.	" "	D 586
Phoebe Johnson, et al.,	" "	D 589
Henry C. Ridge,	" "	D 638
Ida Jones, et al.,	" "	D 647
Ary Lynch,	" "	R 70
Elnora Vann,	" "	R 113
Maud Riley, et al.,	" "	D 591
Rosa Vann, et al.,	" "	D 594
William Townsend,	" "	D 636
Mollie Townsend, et al.,	" "	D 651.
Dennis Hicks Sr., et al.,	" "	D 365
Joshua Holt, et al.,	" "	D 644
Sallie Miller,	" "	D 648
Mary Johnson,	" "	D 864
Ruth Vann, et al.,	" "	D 866
Frank Johnson, et al.	" "	D 875
Eliza Hawkins, et al.,	" "	D 358
Joseph Hicks, et al.	" "	D 360
Katie Hicks,	" "	D 361
James A. Hicks,	" "	D 362
Frances Johnson, et al.,	" "	D 676
Anna Butler, et al.,	" "	D 979
Howard Bushyhead,	" "	D 980
Katie Davis	" "	D 953
Moses Riley, et al.,	" "	D 256
Andrew Riley, et al.	" "	D 260
Jesse Riley, et al.,	" "	D 261
Frank Riley, et al.	" "	D 262
Jerry Riley, et al.,	" "	D 263
Fannie Scott, et al.,	" "	D 266
Delilah Johnson, et al.,	" "	D 267
Lettie Johnson, et al.,	" "	D 268
Jane Riley,	" "	D 600
Daniel Thompson,	" "	D 606
Elick Ward, et al.,	" "	D 623
Sandy Thompson,	" "	D 693

Ruth Riley, et al.,	Cherokee Freedmen D 579
Hannah Riley,	" " D 589
Charles Landrum,	" " D 601
Bettie McIntosh,	" " D 903
William Riley,	" " D 603
Carrie Gibson,	" " D 704
Cora J. Wagoner, et al.,	" " D 570
Arthur Riley,	" " D 571
Elizabeth Melton, et al.,	" " D 441
Julius Curis,	" " D 269
Riley Curis, et al.,	" " D 270
Ophelia Thompson, et al.,	" " D 271.

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Katie Ridge for herself; by Cornelius Ridge for himself and wife, Laura Ridge (by intermarriage), and minor children, Pearl, Jesse and Myrtle Ridge; by Phoebe (Milton) Johnson for herself and minor children, Joseph, Percy, Herbert, Serena and Pearl Milton; by Henry C. Ridge for himself; by Ida Jones for herself and minor children, Lee, Eddie and Stella Martin; thereafter, on June 27, 1902, there was filed with the Commission an affidavit showing the birth, on June 3, 1902, of Cornelias Jones, child of the applicant, Ida Jones; by Charles J. Lynch for, among others, his wife, Ary Lynch (by intermarriage), the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Walter Vann for, among others, his wife, Elnora Vann; the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Maud Riley for herself and minor child, Jesse Barnett; thereafter, on April 9, 1902, there was filed with the Commission an affidavit showing the birth, on October 26, 1901, of John C. Riley, child of the applicant, Maud Riley; by Rosa Vann for herself and minor child, Josephine Vann; by William Townsend for himself; by Mollie Townsend for herself and minor children, Rosa, George, Arthur and Ethel Townsend; by Dennis Hicks, Sr., for himself (by intermarriage), and wife, Bettie Hicks and minor children, Leroy, Dennis Jr., Delana, Mabel and Elmer Hicks; by Joshua Holt for himself and wife, Jane Holt, and minor stepchildren, Laura and Ella Beeson, and minor children, Jessie Willard, Clifford and Maucelia (Marcelia) Holt; by Sallie Miller for herself; by Mary Johnson for herself; by Ruth Chinnett for

herself and minor children, Martha and Lillie Chinnett; subsequent to filing her application herein and prior to September 1, 1902, the applicant, Ruth Chinnett, was married to one George Vann, and she will now be listed for enrollment as Ruth Vann; by Frank Johnson for himself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 7, 1902, of Luella Johnson, child of the applicant, Frank Johnson; by Eliza Hawkins for herself and minor child, Tyndle E. Hawkins; by Joseph Hicks for himself and wife, Susie Hicks (by intermarriage), and minor child, Otto A. Hicks; by Katie Hicks for herself; by James A. Hicks for himself; by Frances Johnson for herself and minor children, Nettie, Katie, Clarence and Wilda Johnson; by Anna Butler for herself and minor child, Esther Owen; by Anna Butler for her adult brother, Howard Bushyhead; by Katie Davis for herself; by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and minor child, Nathaniel Riley; by Jesse Riley for himself and minor children, Joseph, Ollie, Viola, Mabel, Elnora, Ideller and Luther D. Riley; by Frank Riley for himself and minor children, Lottie, Fannie, James, Ralph, Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth, on November 30, 1901, of Earl E. Riley, child of the applicant, Frank Riley, and on June 28, 1902, there was filed with the Commission an affidavit showing the birth, on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant, Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James L., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller, and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Elick Ward for himself and wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant, Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth, on August 24, 1901, of Oval Wagoner, child of the applicant, Cora J. Wagoner; by Arthur Riley for himself; by Elizabeth Melton for herself and minor child, Elnora Melton; by Julius Curls for himself; by Riley Curls for himself and minor children, Willie, Edward, James, George, Stephenie and Clarence Curls; thereafter, on July 1, 1902, there was filed with the Commission an

affidavit showing the birth, on February 13, 1902, of Beatrice Curis, child of the applicant, Riley Curis; and by Ophelia Thompson for herself and minor children, Alpha, Libbie, Mirschel, Harvey and Clyde Thompson.

Copies of the following testimony, decisions, and Departmental letters are filed herewith and made a part of the record in this case: Its decision rendered by the Commission on March 5, 1904, and Departmental letter of May 17, 1904 (I.T.D. 3470-04), in the case of Ed Vann, C.F.D. 660; its decisions rendered by the Commission on July 10, 1903, and June 23, 1904, and of Departmental letters of May 11, and November 12, 1904 (I.T.D. 2412, 8594-04), in the cases of Jesse Vann et al., C.F.D. 254 (R 302), and Emma Purtle C.F.D. 265; its decisions rendered by the Commission on March 5, and April 20, 1904, and of Departmental letters of June 9, 23, and 25, 1904 (I.T.D. 4388, 502-5034-04), in the cases of Esther Holt, C.F.D. 645 (R 443), Tecumseh Holt, C.F.D. 653 (R 399), William Holt, C.F.D. 694 (R 398), and Moses Holt C. F. R. 185; its decision rendered by the Commission on March 5, 1904, and Departmental letter of June 21, 1904 (I.T.D. 4736-04); in the consolidated case of Katie Thornton et al., C.F.D. 578 et al., (R 410-R 411-R 412-R 413-R 414); of the testimony taken at Chelsea, Indian Territory, June 8, 1901, its decision rendered by the Commission on April 20, 1904, and of Departmental letter of October 31, 1904, (I.T.D. 8138-04), in the consolidated case of Katie Blackwell, et al., including, among others, the application of Mary Riley, C.F.D. 624; of its decision rendered by the Commission on November 23, 1904, in the consolidated case of Andrew T. Katie, C.F.D. 502, et al., and of the testimony taken at different times and places in the cases of Edward Derrick, C.F.D. 818, Aaron Webber C.F.D. 216, Elizabeth Neigs, et al., C.F.D. 391, Samuel Beck, et al., C.F.D. 775, David Johnson, C. F.D. 356, Abraham Ward, C.F.D. 607 (R 283), and of Peter Ward, C.F.D. 613, R282).

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Katie Ridge, is the mother of the applicants, Cornelius Ridge and Phoebe Johnson, and of one Jesse Ridge, and one Mary Ridge (latericks, former wife of Dennis Hicks Sr., D 355, infra.), both deceased; that the said applicants and the said Jesse and Mary Ridge, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation; that the applicants, Laura Ridge and Ary Lynch, neither claim nor possess any rights to enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicant Cornelius Ridge and to the said Jesse Ridge, deceased; that the applicants, Pearl, Jesse, Myrtle and Henry C. Ridge, and Ida Jones, are children of the said

applicants, Cornelius and Laura Ridge, were born since 1866, and possess no rights to enrollment other than as descendants of their said parents; that the applicants, Joseph, Percy, Herbert, Serena and Pearl Milton, Maud Riley, Rosa Vann, and William Townsend, are children of the applicant Phoebe Johnson, were born since 1866, and possess no rights to enrollment other than as descendants of their said mother; that the applicants, Lee, Eddie and Stella Martin and Cornelias Jones, are children of the applicant Ida Jones, were born since 1880, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said applicants Lee, Eddie and Stella Martin, possess any rights to enrollment other than as descendants of their said mother, and the applicant Cornelias Jones, possesses no rights to enrollment other than as his mother's descendant; that the applicant Minora Vann, is a child of the applicant Ary Lynch, and the said Jesse Ridge, deceased, was born since 1880, and possesses no rights to enrollment other than as a descendant of her said parents; that the applicant Jesse Barnett, is a child of the applicant Maud Riley, was born since 1880, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said Jesse Barnett possesses any rights to enrollment other than as a descendant of his said mother, and that the applicant John C. Riley, is a child of the said applicant Maud Riley, and one William Riley, (Said William Riley's rights to enrollment are considered below, C.F. D. 603), was born since 1880, and possesses no rights to enrollment other than as a descendant of his said parents; that the applicant Josephine Vann, is a child of the said applicant Rosa Vann, was born since 1880, and possesses no rights to enrollment other than as a descendant of her said mother (In C.F.D. 660, the Commission found that one M. Vann, father of the said applicant Josephine Vann, possesses no rights to enrollment as a Cherokee freedman, and on May 17, 1904, Departmental letter I.T.D. 347C-04, said finding was approved by the Department); that the applicant Mollie Townsend, is a daughter of one Jesse Vann, and one Emma Purtle, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 254 and 265 the Commission found that the said Jesse Vann and Emma Purtle possess no rights to enrollment as Cherokee freedmen, and on May 11, and November 12, 1904, Departmental letters I.T.D. 2412-8594-04, said findings were approved by the Department); and that the applicants, Rosa, George and Arthur Townsend, are children of the said applicants William and Mollie Townsend, were born since 1880, and possess no rights to enrollment other than as descendants of their said parents.

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicants, Dennis Hicks Sr., and Susie Hicks, neither claim nor possess any rights to enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicants Bettie and Joseph Hicks; that the applicants Bettie Hicks, Joshua Holt

and Sallie Miller (children of one Esther Holt), and Anderson Johnson, deceased, Buck Bushyhead, deceased, and Nettie Downing, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the Whitmire decree, supra., for the return of freedmen to the Cherokee Nation; that the applicants, Leroy, Dennis Jr., Dolan, Mabel, and Elmer Hicks, Jane Holt, Laura and Ella Beeson, Jessie, Willard, Clifford and Maucelia (Marcella) Holt, Mary Johnson, Ruth Vann, Martha and Lillie Chienett, Frank and Luella Johnson (In C.F.D. 855 the Commission found that one Charlotte Beeson, mother of the applicant, Luella Johnson, possesses no rights to enrollment as a Cherokee freedman, and on July 21, 1904, its finding was approved by the Department), Eliza and Cyndie E. Hawkins, Joseph, Otto A., Katie and James A. Hicks, Frances, Nettie, Katie, Clarence and Wilda Johnson, Anna Butler, Esther Owen, Howard Bushyhead, and Fannie Davis, were born since the commencement of the rebellion, are descendants of the said applicants, Dennis Hicks Sr., Battie and Susie Hicks, Joshua Holt and Sallie Miller, and of Anderson Johnson, deceased, Buck Bushyhead, deceased, Nettie Downing, deceased, and Mary Ridge, deceased, (In re Mary Ridge see preceding paragraph), and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

THE EVIDENCE FURTHER SHOWS: That one Riley McNair and one Maria McNair, both deceased, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah and Lottie Johnson, and of Millie McNair, deceased; that the said Riley, Maria and Millie McNair, all deceased, and the said applicants, Moses, Andrew, Jesse and Jerry Riley, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Ellick and Amanda Ward and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the above mentioned Whitmire decree, for the return of Cherokee freedmen to said Nation; that the applicant, Ruth Riley, is a daughter of Henry Thornton, deceased, and Katie Thornton, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 578, 580 and 581, the Commission found that the said Katie Thornton and one Maggie Curls and one Joseph Thornton, full sister and brother of the said applicant, Ruth Riley, possess no rights to enrollment as Cherokee freedmen, and on June 21, 1904, its finding was approved by the Department); that the applicant, Hannah Riley, was born prior to the commencement of the rebellion, and was the slave of a non-citizen of the Cherokee Nation at the commencement of the rebellion; and that the applicants, Lillie

Nathanial, Joseph, Ollie, Viola, Mabel, Elnora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E., Clarence (In C. F.D. 624, the Commission found that one Mary Riley, wife of the applicant Frank Riley, and mother of the applicants, Lottie, Fannie, James, Ralph, Arizona, Inola and Earl E. Riley, and grandmother of the applicant, Clarence Riley, possesses no rights to enrollment as a Cherokee freedman, and on October 31, 1904, its finding was approved by the Department), Samuel, James ., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Rebecca, Luford, Wilbert and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J., and Oval Wagoner, Arthur Riley, Elizabeth and Elnora Melton, Julius, Riley, Willie, Edward, James, George, Stephenia and Beatrice Curls, (One Nancy Curls, C.F.D. 429, who was denied enrollment by the Commission, is the mother of the six last mentioned applicants), Ophelia, Alpha, Libbie, Mirschel, Harvey and Clyde Thompson, were born since the commencement of the rebellion, are descendants of the said applicants, Moses, Andrew, Jesse, Jerry, Jane, Ruth and Hannah Riley, Fannie Scott, Lottie Johnson, Daniel and Sandy Thompson, and Ellick and Amanda Ward, and of the said Riley McNair, deceased, Maria McNair, deceased, and Willie McNair, deceased, Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, and possess no rights to enrollment other than as such descendants.

None of the applicants herein born during or prior to the first below mentioned year, nor the ancestors of any of the said applicants herein born during or subsequent to the said first below mentioned year, can be identified on the Cherokee authenticated tribal roll of 1880, and none of the applicants herein can be identified on the Cherokee census roll of 1896.

THE EVIDENCE HERETO FURTHER SHOWS: That the applicants Ethel Townsend and Clarence Curls, died prior to September 1, 1902. Affidavits to that effect are filed herewith and make a part of the record herein.

Section twenty-five of the Act of Congress approved July 1, 1906 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

The applicants, Katie and Cornelius Ridge and Phoebe Johnson, testify that they, together with Mary and Jesse Ridge,

both deceased, returned to the Cherokee Nation in 1866, remained a few months, and then removed to Joplin, Missouri, where they resided for a number of years. That they returned to the Cherokee Nation in 1866 is controverted by the testimony of witnesses who were in a position to know the matters of which they testify. In view of the fact that the burden of proof is on the applicants, and they must show by satisfactory evidence that their rights to enrollment are perfect, it is considered that these applicants have wholly failed in this, and that their applications come within the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert et al., (I.T.D. 4732-04), and Moses Ross (I.T.D. 6056-04); and, granting that said above named parties did return to the Cherokee Nation in 1866, as contended, it is further considered that they did not establish such a residence in said Nation as was contemplated by the treaty of 1866, and are, therefore, within the rulings of the Department in the cases of Martha Gales and Susan Brown (I.T.D. 1850-04), and Thomas Mayfield et al. (I.T.D. 6968-04).

The testimony in re return to the Cherokee Nation, after the rebellion, of the applicants, Bettie Hicks, Joshua Holt, and Sallie Miller, and of the said Buck Bushyhead, deceased, and Nettie Downing, deceased, is contradictory in itself, and contradicted by the testimony of witnesses in behalf of the Cherokee Nation, hence, it is unsatisfactory, and the first above mentioned rulings of the Department are considered applicable. In this connection attention is called to the cases of Esther Holt, C.F.D. 645, Tecumseh Holt, C.F.D. 643, William Holt, C.F.D. 694, and Moses Holt, C.P.R. 186, mother and brothers of the three applicants first named in this paragraph. The material facts as established by the evidence in the several cases embracing this family, are practically the same, and the Commission found that the said Esther, Tecumseh, William and Moses Holt, possess no rights to enrollment as Cherokee freedmen, and its findings were duly approved by the Department. Granting that the applicants, Bettie Hicks, Joshua Holt and Sallie Miller, and the said Buck Bushyhead and Nettie Downing, deceased, returned to the Cherokee Nation during the interval between the close of the rebellion and February 11, 1867, they must have remained but a short time, as, by the testimony of the applicants themselves, and that of disinterested witnesses, it is shown that during a period beginning immediately subsequent to the year 1867, they, for a number of years, continuously lived outside the limits of the Indian Territory, consequently, the ruling of the Department in the cases of Martha Gales, Susan Brown and Thomas Mayfield, et al., supra., is also applicable to them. Sam Webber, Lewis Whitmire, and Daniel and Reuben Sanders, testify that Anderson Johnson returned to the Cherokee Nation with them in the summer of 1866, but for reasons more fully set out below, it is not considered that their testimony is either convincing or satisfactory. That these four witnesses complied with

the treaty stipulations of 1866, there is no doubt. They were admitted to citizenship by the Chambers Court, and are identified on the 1880 roll. Without calling attention to the many cases in which the above named witnesses have been successfully contradicted and repeatedly impeached, it is considered by this office, that, after hearing the testimony of numerous witnesses, interested and disinterested, and after the examination of many exhibits filed and made a part of the record in freedman cases, it can identify each and every member of the party of freedmen known as the Webber-Whitmire-Sanders detachment, or colony, who complied with the treaty stipulations of 1866, and it is fully convinced that Anderson Johnson was not a member of that party. In support of this position attention is called to the fact that the personnel of the above mentioned party was thoroughly gone into by the Chambers Court, in 1878-9, and numerous witnesses, among others, the said Lewis Whitmire, examined on behalf of both parties, and that, too, at a time when the facts must have been fresh in their minds, and no particular advantage was to be had by misrepresenting who were included in said party, with one accord testify as to who composed this colony of freedmen, and the said Anderson Johnson is never named as one of them. By reason of changed conditions, the experience of the former Commission and of this office, in their investigations relative to the personnel of said colony of freedmen, has been somewhat different from that of the Chambers Court, but generally the conclusions reached have been the same. It seems to have been the policy of those witnesses appearing before the Commission, who were members of the above mentioned colony of freedmen, to add to said colony as occasion required, but after an examination of a great number of freedman cases in which the above named witnesses testified, it cannot be found that they ever included Anderson Johnson as a member of this colony, until they were called upon as witnesses in behalf of his descendants, although they were often asked to, and as often did, name those who returned with them in 1866.

As to the return of Riley McNair, deceased, to the Cherokee Nation after the rebellion: Moses Hardrick, in behalf of the descendants of the said Riley McNair, testifies that, after the rebellion, he and Riley McNair returned to the Cherokee Nation together. In C.F.D. 314, the Commission found that the said Moses Hardrick did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on October 13, 1904, its finding was approved by the Department. It was several months after the above indicated trip before Riley McNair moved his wife and family to the Cherokee Nation. One Emma Purtle, daughter of the said Riley and Maria McNair, removed from the Cherokee Nation during, and returned thereto after, the rebellion, with her father's family. In C.F.D. 265, the Commission found that the said Emma Purtle did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on November 12, 1904, its finding was approved by the Department. The said Columbus Rogers, deceased, returned to the Cherokee Nation after the rebellion with the said McNair-Riley family.

The applicant, Jane Riley, testifies that she returned to the Cherokee Nation in 1866, and is corroborated by her witness, Jack Landrum. No credit can be given the testimony of the said Jack Landrum, as he has been repeatedly contradicted and impeached, (See, in particular, C. F. D. 498-D 664 and D 863). In C. F. D. 578 (R 410), he swore, point blank, that Katie Thornton, applicant therein, and her husband, Henry Thornton, deceased, returned to the Cherokee Nation during the winter of 1866, and that he hauled logs to help build their house. In this case it was conclusively shown by the testimony of disinterested witnesses, that the said Katie and Henry Thornton did not leave Garnett, Kansas, after the rebellion, prior to March 1, 1871, and on this testimony the Commission denied the applicant, Katie Thornton, the right to enrollment, and its action was duly approved by the Department. Attention is further called to the fact that the said applicant, Jane Riley, and one Ben Landrum, deceased, are the parents of the applicants Charles Landrum and Bettie McIntosh, and that the said two last named applicants were born in 1866 and 1868, respectively. It is shown by the testimony of several disinterested witnesses, and a certified copy of the record of certain proceedings had before the District Court of Woodson County, Kansas, that the said Ben Landrum, continuously lived near Garnett, Kansas, during the years 1866, '67 and '68..

The applicant Daniel Thompson, testifies that on his return to the Cherokee Nation after the rebellion, he found his son, Andrew Watie, at Fort Gibson. In C. F. D. 502, the Commission found that the said Andrew Watie did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree. The applicants Sandy Thompson and Amanda Ward, returned with their father, the said Daniel Thompson.

In connection with those applicants herein who claim through Jess Ridge, deceased, and the applicants, Cornelius Ridge, Henry Ridge, Daniel Thompson, and Robert Foster, attention is called to the fact that the Commission on Cherokee Citizenship of 1878-9, decided that the said Jess Ridge, since deceased, and the four applicants last above named, were not entitled to Cherokee citizenship, a certified copy of the proceedings of said Commission in re above named parties, being filed herewith and made a part of the record herein.

The applicant, Elick Ward, swears that he was raised by one Peter Ward, and after the rebellion returned to the Cherokee Nation with the said Peter Ward and one Abraham Ward. In C. F. D. 613 (R 282), and D 607 (R 283), the Commission found that the said Peter and Abraham Ward did not return to the Cherokee Nation after the rebellion, within the time specified in the Whitmire decree, and on April 29, 1904, its findings were approved by the Department.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, following the ruling of the Department in the case of Lemuel Welcome (I.T. D. 5848, 11776-04), under the provisions of the Act of Congress approved June 20, 1898 (30 Stat., 495), Laura Ridge, Ary Lynch, Dennis Hicks Sr., and Susie Hicks, are not entitled to enrollment

as citizens by intermarriage of the Cherokee Nation, and their applications for enrollment as such are accordingly denied; and that under the provisions of Section Twenty-one of the Act last above noted Katie Ridge, Cornelius Ridge, Pearl Ridge, Jesse Ridge, and Myrtle Ridge, Phoebe (Milton) Johnson, Joseph Milton, Percy Milton, Herbert Milton, Serena Milton, and Pearl Milton, Henry C. Ridge, Ida Jones, Lee Martin, Eddie Martin, and Stella Martin, Cornelias Jones, Elnora Vann, Maud Riley, Jesse Barnett and John C. Riley, Rosa Vann and Josephine Vann, William Townsend, Mollie Townsend, Rosa Townsend, George Townsend, and Arthur Townsend, Bettie Hicks, Leroy Hicks, Dennis Hicks Jr., Delan Hicks, Mabel Hicks and Elmer Hicks, Joshua Holt, Jane Holt, Laura Beeson, Ella Beeson, Jessie Holt, Willard Holt, Clifford Holt and Mancelia (Marcelia) Holt, Sallie Miller, Mary Johnson, Ruth Vann, Martha Chinnett and Lillie Chinnett, Frank Johnson and Luella Johnson, Eliza Hawkins and Tyndie E. Hawkins, Joseph Hicks, Otto A. Hicks, Katie Hicks, James A. Hicks, Frances Johnson, Nettie Johnson, Katie Johnson, Clarence Johnson and Wilda Johnson, Anna Butler, Esther Owen, Howard Bushyhead, Katie Davis, Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, and Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, and Jimmie Scott, Delilah Johnson, Allie Johnson, Luanan Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson and Arch Johnson, Jane Riley, Daniel Thompson, Ellick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward and Maine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, and Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagoner and Oval Wagoner, Arthur Riley, Elizabeth Melton and Elnora Melton, Julius Curls, Riley Curl, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls and Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson and Clyde Thompson, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

AND IT IS FURTHER ORDERED AND ADJUDGED: That the applications for the enrollment of Ethel Townsend and Clarence Curls, be, and the same are, hereby dismissed, in accordance with the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716).

COMMISSIONER

Dated at Muskogee, Indian Territory,

this OCT 13 1905

IN THE MATTER OF THE ENROLLMENT OF CITIZENS
CHEROKEE NATION.

UNITED STATES OF AMERICA
N INDIAN TERRITORY
N ORTHERN DISTRICT THEREOF

SS

PROOF OF SERVICE.

G. P. Fogle of lawful age being by me duly sworn, says
that he deposited in the United States Post Office, at Vinita,
Indian-Territory, an envelope to be duly registered containing
a copy of the argument hereto attached. Said envelope to be duly
registered to Sas. S. Davenport and L. B. Bell attorneys for
the Cherokee Nation, at Muskogee, Indian Territory, which said
post office is the Official address of the parties to whom said
envelope was mailed.

G. P. Fogle

Subscribed and sworn to before me this 23d day of November, 1905.

John H. Allen
Notary Public.

Com. Exp.

2/3. 1909

DEPARTMENT OF INTERIOR.
BEFORE THE HONORABLE SECRETARY OF THE INTERIOR.

ooo o ooo

In the matter of the application for the enrollment of Moses Riley et al as Cherokee Freedmen, consolidating the application of:

Moses Riley et al	Cherokee Freedmen	D 258
Andrew Riley et al.,	"	D 260
Jesse Riley et al.,	"	D 261
Frank Riley et al.?	"	D 262
Jerry Riley et al.,	"	D 263
Fannie Scott et al.,	"	D 266
Delilah Johnson et al.,	"	D 267
Lettie Johnson et al	"	D 268
Julius Curle	"	D 269
Riley Curle et al	"	D 270
Ophelia Thompson et al.,	"	D 271
William Riley	"	D 603
Carrie Gibson	"	D 704
Cora W. Wagoner et al.,	"	D 570
Arthur Riley	"	D 571
Elizabeth Melton et al	"	D 541

BRIEF ON THE PART OF APPLICANTS.

There seems to be a disposition on the part of the Honorable Commissioner to the Five Civilized Tribes to dispose of these Freedmen cases in the most summary way possible, therefore, has consolidated them all without regard to family relation; the questions involved or the character of testimony applicable to the different cases and has rejected the whole aggregation. He has consolidated in the decision rendered October 13, 1905, rejecting the above named applicants, three distinct and separate families whose rights to citizenship in the Cherokee Nation are supported by wholly different testimony. These three families are first the descendants of Katie Ridge, second the descendants of Esther Holt and third the descendants of Riley McNair who have herewith made application to be enrolled by the Honorable Secretary of the Interior. The testimony in

support of the applications of the descendants of Riley McHair is in no way connected with or dependent upon the testimony relative to the other families, yet the Honorable Commissioner has consolidated all these cases, thereby prejudicing the rights of these applicants. This is no small matter to these people, but one affecting by its consequences, the protection or destruction of their homes and property. These people are admitted to have been slaves of Cherokee Citizens and have lived in the Cherokee Nation all their lives, with the exception of a few months during the war of the rebellion. They have made themselves little homes, relying upon the solemn treaty of The United States and the Cherokee Nation, and have contributed in their humble way, toward the development of this country. Now, to be deprived of their property in this summary way, in their declining years, is a procedure scarcely expected from the Government which guarantees that no person shall be deprived of his property without due process of law or be denied the equal protection of the law.

The Honorable Commissioner, in his decision rendered October 13, 1905, found, and it is undenied by the Cherokee Nation, that these applicants were slaves of Cherokee citizens at the commencement of the rebellion.

The treaty of July 19, 1866, vests two classes of persons named therein with "all the rights of native Cherokees". The treaty, after announcing the fact that the Cherokee council in February, 1863, had abolished slavery, provided that two classes of persons not previously entitled to rights in the Cherokee funds and common property, should from that date have all the rights of native Cherokees. One of the classes provided

for was "Freedmen", to wit persons "who have been liberated by voluntary act of their former owners or" Who have been liberated "by law". The other class referred to in this treaty and who were given all the rights of native Cherokees, was "All free colored persons who were in the country at the commencement of the rebellion and are now residents therein, or who may return within six months, and their descendants."

This clearly defines two classes of persons who should acquire, under this treaty, all the rights of native Cherokees. The first, slaves of Cherokee citizens, who had been liberated by voluntary act of their former owners or by law - Freedmen. Not free men, but freed men, and their descendants.

The government of the United States demanded this concession of the Cherokee Nation to these former slaves, in consideration of the faithful service they had rendered to the citizens of the Cherokee Nation during their term of slavery.

The other class consisted of those persons who had not suffered the hardships of slavery; had not been forced to give their entire time, labor and body to the will of a master, but were free men "Free colored persons" who resided in the Cherokee country at the commencement of the rebellion. Of that class - free colored persons, the treaty provided that they should be residents within the country at the date of its adoption, or that they should return thereto within six months. The treaty does not place upon Freedmen the necessity of returning to the Cherokee Nation within six months from the date of its adoption in order that they should have all the rights of native Cherokees. They fulfill the letter and the spirit of the treaty when they return within any time given to native Cherokees in which to return to the Cherokee Nation. This is in

harmony with the interpretation given by the Court of Claims to the ninth article of the treaty of 1866 in the case of Moses Whitmire, trustee, vs Cherokee Nation and the United States. It will be remembered that the controversy between the Cherokee Nation and the Freedmen has been one of long standing and bitter feeling, and that as early as 1888 Congress passed an act which recited, before the enacting clause, that whereas the Freedmen in the Cherokee Nation have been deprived of their just rights by the Cherokee Nation, it passed an act providing for an appropriation. (See Stat. L. pp. 609). In the following year, that is to say on the 2nd day of March, 1889, the President of the United States duly approved another act of Congress which, among other things, provided for an appropriation to be expended in ascertaining to whom the funds arising from the leases of the strip lands should be paid as Freedmen of the Cherokee Nation, and directing the Secretary of Interior to make inquiry and report to the next session of Congress. (See 25 Stat. L. pp. 980 and 994). It was under this legislation that the Wallace roll of Freedmen of the Cherokee Nation was made by the United States. In the case of Moses Whitmire, trustee, vs the Cherokee Nation and the United States, congress referred to the Court of Claims, for adjudication, the controversy between the Cherokee Nation and the Freedmen. The language of Mr. Justice Nett, who rendered the opinion of the Court which preceded the final decree of February 3, 1896, is evidence of the appreciation, by that Court of the gravity of the issues and the necessity for a final adjudication. He said, in part:

" In the present case it is a matter of public concern as well as of private right that the controversy be brought to

an end. It is not alone a mere litigation for dollars and cents, affecting individual suitors. It is also a controversy affecting the whole nationality, and disturbing the peace and order of society."

It is clear that the purpose of this action was to finally determine the rights of the Freedmen and all free colored persons in and to the fund arising from the strip lands and also their future rights to share in the common property of the Cherokee Nation. There are but two propositions in the decree, and one is the right of the Freedmen and free colored persons to share in the fund arising from the strip lands and the other is their rights to a future share in the common property of the Cherokee Nation. A negro had to be a Freedman or a free colored person to be entitled to either, and he could not be entitled to one without being entitled to the other. The judgment of the Court is as follows:

"It is ordered, adjudged, and decreed that so much of the act of the Cherokee National council of date April 26, 1886, November 25, 1890, and May 3, 1894, as restricts the distribution of funds which were derived from the public domain and from the sale of lands by the Cherokee Nation to the Government of the United States to citizens of the nation by blood be held and decreed void and contrary to and in derogation of the constitution of the Cherokee Nation and the provisions and stipulations of article 9 of the aforesaid treaty of July 19, 1866, with respect to the rights of said Freedmen who had been liberated by voluntary act of their former owners or by law, and all free colored persons who resided in the Cherokee country at the commencement of the rebellion and who on the said date resided therein, or who returned thereto within six months thereafter, and their descendants; and that the said Cherokee Nation or its trustee, the United States, account for, render, and pay to the aforesaid freedmen and free colored persons and their descendants out of any fund of the said nation in its national treasury, or in the custody of the United States as trustee, or held by agreement between said nation and the United States for the purpose of satisfying the decree herein rendered, not specifically appropriated by law to other purposes, or out of funds which may hereafter come to the possession of said trustee belonging to the Cherokee Nation, a sum equal to the aggregate amount which said freedmen and free colored persons and their descendants would have received if the ~~above~~ before-mentioned void and unconstitutional restrictions in said statutes had not existed.

"And it is further adjudged and decreed that the complainants in this suit and those whom they represent, being the freedmen and free colored persons aforesaid and their descendants living and in being on the 3rd day of May, 1894, are entitled to participate hereafter in the common property of the Cherokee Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage may be entitled, and that in the distribution of the proceeds and avails of the public domain or common property of the Nation among the citizens thereof by distribution per capita at any time hereafter, the defendant, the Cherokee Nation, and the defendant, the United States, as trustee of the Cherokee Nation, be enjoined and prohibited from making any discrimination between the Cherokee citizens of Cherokee blood or parentage and Cherokee citizens who are or were freedmen who had been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty, or who returned thereto within six months thereafter, and their descendants, to the prejudice of the latter."

It will be seen that the Court first determines that the complainants and those whom they represent- "Being the Freedmen and free colored persons aforesaid", are entitled to participate hereafter in the common property of the Cherokee Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood, and that in the distribution of the common property of the nation among the citizens thereof, at any time hereafter, the defendant the Cherokee Nation, and the defendant, the United States, as trustee of the Cherokee Nation, be enjoined and prohibited from making any discrimination between the Cherokee citizens of Cherokee blood or parentage and Cherokee citizens who are "freedmen who had been liberated by voluntary act of their former owners or by law", or were, "free colored persons who were in the Cherokee country at the commencement of the rebellion and were residents therein at the date of said treaty, or who returned thereto within six months thereafter, It appears from this that the Court of Claims intended to apply the Roman doctrine of once a Cherokee Citizen always a Cherokee

citizen. In furtherance of that doctrine the court ordered a roll to be made which is now known as the Clifton roll, the provision of the Court for said roll being as follows:

"And it is further ordered and adjudged that, for the purpose of ascertaining and determining who are the individual freedmen of the Cherokee Nation now entitled to share in the distribution of the said sum of \$903,365, the Secretary of the Interior be authorized to appoint three commissioners, one on the nomination of the complainant and one on the nomination of the defendant, the Cherokee Nation, but both nominations to be approved by him, to proceed to the Cherokee country and hear the testimony both for and against the identity of all freedmen

free colored persons, and their descendants, claiming to be entitled to share in the distribution of said \$903,365, that may be offered by the respective parties in this suit; and that each of said parties shall be entitled to be represented before said commissioners, either at the taking of testimony in the Cherokee Nation or elsewhere; and that the said commissioners, in ascertaining the identity of the freedmen entitled to share under this decree, shall accept what is known as the authenticated ~~roll~~ Cherokee roll, the same being on file in the office of the Secretary of the Interior, having been furnished to him and purporting to have been taken by the Cherokee Nation in 1880, for the purpose of showing the number of freedmen entitled to citizenship in the said nation under the terms of the treaty between the United States and the Cherokee Nation hereinbefore referred to, and their descendants; and the said commissioners shall ascertain who of said persons named on said roll were ~~living~~ alive and what descendants of said persons were alive on May 3, 1894, and no evidence shall be accepted by said commission tending to disprove the citizenship of any of the persons whose names appear upon said roll."

The whole controversy between the Cherokee Nation and the complainants was fully gone into and every question which is now fought over by the Cherokee Nation before the Commission to the Five Civilized Tribes was squarely and fairly before the Court of Claims, and by that court finally settled.

Moreover, the controversy was settled by a consent decree. At the beginning of the decree is found this language:

"Now on motion by the attorney for the complainant, the ~~attorney for the~~ defendant consenting thereto, it is ordered that the said decree be vacated and set aside and the following decree be entered as a final decree in this case."

And apparently to make it more obvious, if it were possible,

that this should operate as a final settlement of the whole controversy there was placed at the end of the decree the following stipulation:

"It is hereby stipulated and agreed on the part of the complainant and on the part of the defendant, the Cherokee Nation that the foregoing decree be entered in this case in the place and stead of the decree entered and filed May 8, 1895, in this case, and that it be entered nunc pro tunc as of that date, to wit, May 8, 1895, and that the application for an appeal filed by the complainant and the application for an appeal and the motion for a rehearing and for a new trial filed by said defendant, be mutually withdrawn upon the entry of this corrected decree.

(Signed)

mutually withdrawn upon the entry of this corrected decree.

Dated Washington, February 3^d 1896.

(signed)

Robert H. Kern,
Attorney for Complainant
E. C. Boudinet
Maxwell & Chase,

Attorneys for Cherokee Nation.
S. H. Mayes,

Principal Chief of the Cherokee Nation

There is not a fact but which points to the uncontrovertible proposition that this decree was a final adjudication of the rights of the parties. It was entered by consent and denominated a final decree, and the prayers for appeal on both sides were formally withdrawn and all the parties regarded it as a final determination of the rights of all the Freedmen and free colored persons, both to the money and to the future distribution of the common property of the Cherokee Nation. We have, added to the decree of the court the actual and positive consent of both the parties.

"A consent decree is a bar to subsequent suit upon a claim settled by it, although not in fact litigated in the suit in which the decree was rendered."

Beach on Equity Practice, Sec. 794.

"A decree or judgment by consent is binding and conclusive unless procured by fraud. It is not the subject of an appeal or rehearing or bill of review, and cannot be modified or varied

in an essential part without the consent of both parties to the same, and even then only at the same term at which it was rendered."

Beach on Equity Practice, Sec. 735.

Nashville Ry. vs the U. S. 113 U. S., L.ed., 28,p.971

Saleaki vs Boyd, 32 Ark., 74.

Morris vs Payton 11 S. E. 954.

From these decisions it will be seen that a consent decree is not subject to appeal, rehearing or review.

"And it is further adjudged and decreed that the complainants in this suit and those whom they represent, being the freedmen and free colored persons aforesaid and their descendants living and in being on the 3d day of May, 1894, are entitled to participate hereafter in the common property of the Cherokee Nation in the same manner and to the same extent as Cherokee citizens of Cherokee blood or parentage may be entitled."

The persons represented by the complainant, Moses Whitwire, are referred to in this decree of the Court of Claims fourteen times, and in every instance they are called "freedmen and free colored persons," "freedmen and free colored persons aforesaid" or "said freedmen and free colored persons aforesaid," and in each reference the limitation for the return within six months is attached to the free colored persons but in no instance is it attached to the Freedmen. In accordance with the decree of the Court of Claims for the making of a roll of freedmen and free colored persons, a commission was sent to the Indian Territory and there heard the testimony both for and against the identity of all freedmen, free colored persons and their descendants, claiming to be entitled to rights in the Cherokee Nation and as the result of that hearing the names of these applicants were placed upon what is known as the Kern-Clifton roll which was made under the decree of the Court of Claims and in furtherance of that decree and therefore became as much a part of it as any provision which it contained.

The authorities are clear upon this proposition wherever it has been involved.

Lathrop Iron Co. vs Meeker, 109 U.S., L.ed., 27, p.898.

Buckman vs Decker, 28 K. J. Equity, 5.

Barstow vs McLachlan, 5 Ill. App., 96.

Burgess vs Seligman, 107 U.S. L. ed., 27, p.361.

In Winthrop vs Meeker, supra, it is held that:

"A accounting ordered only in aid of the execution of the decree and which is not part of the relief prayed for in the bill, does not prevent the decree being final where the litigation as to the merits is terminated and nothing remains to be done but to carry a decree into execution."

In Buckman vs Decker, supra, it was held that:

"Where there was a decree for an account and that the defendants pay to the complainant the amount found due on such an account and a reference accordingly, and on coming into the master's report it was duly confirmed, reporting the sum due from the defendant to the complainant, an order for an execution to make the money was entered, it was held that the decree and order together constituted an adjudication that the amount reported was due from the defendant to the complainant."

In Barstow vs McLachlan above the decree directed a sale by the master and allowed him to pay the proceeds to persons other than the complainants, and the court say:

"This clause leaves it to the Master to pay over the money to such person other than the petitioners as he may determine shall be entitled to it. This is assigned for error, and _____ is cited in support of that assignment. We do not think that case is in point and cannot perceive how such a provision could prejudice the defendant in the decree."

In Burgess vs Seligman, supra, a decree was entered leaving the defendants at liberty to show any credits which by the stipulation were properly applicable in reduction of the amount of the judgment, and the court say:

"The judgment as against the corporation and its privies does establish the debt named therein as due to the plaintiff, but subject to a defeasance for such an amount as might be shown to have been paid to the sub-contractors and labors by the corporation. The defendants as well as the corporation were at liberty to show any credits which by the stipulation were properly applicable in reduction of the amount of the judgment."

None such were shown or attempted to be shown. Until such credits were shown the judgment stood valid for the whole amount."

The act of Congress of June 28, 1898, relating to the rolls of the citizenship of the several tribes provides:

"Sec. 21. That in making rolls of citizenship of the several tribes, as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress + + + + + and they shall investigate the rights of all other persons whose names are found on any other rolls."

This provision expressly says that the roll of Cherokee citizens of eighteen hundred and eighty shall be taken as the only roll intended to be confirmed, except as to freedmen, and then provides what course shall be adopted in making the roll of Cherokee freedmen and says that, "It shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims rendered the third day of February, eighteen hundred and ninety-six."

The roll of freedmen shall be made in strict compliance with the decree of the Court of Claims rendered February 3, 1896. Would it be in compliance with the decree to omit from this roll the name of any person who was on the decree roll. These applicants were found, in the making of the decree roll to be freedmen and they received their per capita payment as freedmen. Now, can it be said that the roll rejecting these applicants, whose names were upon the decree roll is in strict compliance with that decree? The roll made in furtherance of the decree is a part of the decree, and to vacate that roll you, to that extent vacate the decree.

It is not necessary to further discuss the legal rights of these applicants to enrollment as Cherokee freedmen. The record shows that they were slaves of Cherokee citizens at the commence-

ment of the rebellion. Conceding for the sake of this argument that under the Act of Congress of June 28, 1898, the Commission to the Five Civilized Tribes had the right to vacate the Kern-Clifton roll and go into all the facts relative to citizenship of the freedmen and conceding further for the sake of this argument that it was incumbent upon freedmen as well as free colored persons to either be a resident of the Cherokee nation at the time of the adoption of the treaty of 1866 or to return thereto within six months thereafter, the applicants herein contend that they returned to the Cherokee Nation within six months from the adoption of the said treaty. This contention is sustained by the testimony which is now on file as a part of the record in this case.

II

The Honorable Commissioner to the Five Civilized Tribes bases his decision, of October 13, 1905, rejecting these applicants solely upon the testimony of Moses Hardrick and the line of his logic is that because Moses Hardrick, attempting to make his own case as strong as possible, testified that he returned to the Cherokee Nation along with Riley McNair, the father of these applicants, and because the Commissioner, for some reason, which does not appear in this record saw fit to reject Moses Hardrick, therefore he will reject all the descendants of Riley McNair. There is nothing in this record which shows or tends to show the grounds upon which Moses Hardrick was denied citizenship in the Cherokee Nation, it might have been by reason of the fact that he was a slave of a non-citizen, it might have been because he was a free colored person and not a resident of the Cherokee country at the commencement of the rebellion, either of which

facts would bar him from citizenship even though he had returned to the Cherokee Nation within six months from the adoption of the treaty of July 19, 1866. The only point in this record touching the citizenship of Moses Hardrick is found "thrown into" the testimony of Sophia Bryant who purported to be a "Minutes of Special Court of Commission," June 6th, 1871, which says "Moses Hardrick and family. The court decides from the evidence that the defendants are not entitled to the rights of Cherokee citizenship under the Ninth Article of the Treaty of 1866." This "Minute" does not show upon what grounds Moses Hardrick was rejected by that "Commission". Even if it had, it is all incompetent as against these applicants. They were not parties to that proceeding and should not have their rights prejudiced by it.

Moses Hardrick testified that he returned to the Cherokee Nation in 1866, and if he is to be believed as to who came with him upon that return could he not as well be believed as to the time of that return. He is the only witness in this case who says that Moses Hardrick, Tom Moore, Jeff Lyons and Riley McNair came to the Cherokee Nation together. Every witness for the applicants testify that they each saw Riley McNair in the Cherokee Nation in 1866.

The applicant Moses Riley testified that his father Riley McNair left Kansas in the spring of 1866, for the Cherokee Nation and that he returned to Kansas in the fall and got his family and took them to the Cherokee Nation. The witnesses Jim Alberty, Sophia Bryant, Columbus McNair, Allen Lynch and William Foreman each testify that they saw the Riley McNair, the father of these applicants in the Cherokee Nation in 1866, and that they saw the family of Riley McNair in the Cherokee

Nation in the fall of 1866. Sophia Bryant, who has been enrolled by the Honorable Commission to the Five Civilized Tribes and was on the 1880, testified that these applicants, the family of Riley McNair, came to the Cherokee Nation along with her. If the same weight is to be given to her testimony that was given by the Honorable Commissioner to the testimony of Moses Hardrick, when she testifies that these applicants came along with her and she is enrolled as a Cherokee citizen, then these applicants should be enrolled as Cherokee citizens.

An examination of the testimony for the Cherokee Nation will show that there was not one of the witnesses who testified for the Nation who had returned to the Cherokee Nation in the spring of 1866, the time at which Riley McNair returned. The witness for the Cherokee Nation who was first to return was Mrs. Mary J. Thompson who returned in November, 1866. The others returned along at different times as late as 1869 or 1870. Therefore they could not say that Riley McNair was not in the Cherokee Nation at the time these witnesses for the applicant say they saw him here. The most that they could say was that they were not in the Nation at that time and did not see him. Some of the witnesses for the Cherokee Nation did not see applicants and their father in the Nation until as late as 1869 or 1870 and yet it is admitted by the witness Mary J. Thompson that Riley McNair returned as early as May, 1867. So the witnesses who did not see him here until 1869 or 1870 are to be given the same and like weight as those who did not see him until 1867. They just simply did not see him and it does not prove that he was not here before that time. Negative testimony should not be given much weight in the

face of positive testimony to the contrary.

Mary J. Thompson had not lived in the Cherokee Nation prior to the war and was not acquainted with these Cherokee colored people. The first time she had seen any of them was in the fall of 1866, when she and her husband John McNair moved to the Cherokee Nation. It was an easy matter for a number of months to pass without the presence of these people being called to her attention, just as she testified in regard to her acquaintance with William Foreman, who lived in her neighborhood, when she said it was several years after she moved there that she met him. Of course he was there just the same and the fact that she did not see him does not disprove his presence.

The testimony of Mrs. Thompson showed a very indistinct recollection of the dates at that early time. As to her own marriage she first said it was in '57 and again said it was in '58. So vague was her idea of the length of time that had elapsed since then and so indefinite was her impression of the conditions and surroundings that she testified as to her own age that she was about eight or nine when in fact she was a woman grown and married.

The witness R. L. Martin testifies that the first time he saw Riley McNair in the Cherokee Nation was in 1869 or 1870. This goes to show that negative testimony cannot be relied upon as conclusive evidence. He attempts to fix a date at which he saw McNair in the state of Kansas on his way to the Cherokee Nation, and claims that McNair said he was "going home". That fact indicates that he had previously been to the Cherokee Nation and established a residence- a home, and that he was returning. This does not prove that this was the first time he had been to the

Cherokee Nation or that it was the first time his family had been there since the war. Witness attempts to fix this date as December, 1867, but is unable to give any special reason for his remembering this particular date, who he met on that trip or who else was along with Riley McNair. He is shown to be mistaken in some known facts and therefore is liable to be mistaken in this also. He states that Riley McNair belonged to his father, Joseph L. Thompson, at the commencement of the war and that his aunt Susanna McNair was dead long before the war, when it is a known fact that this McNair family belonged to Susanna McNair and that she died in Texas during the war. He is not certain about the exact year, season or month that he saw McNair on Pete Couch's place but says it was 1869 or 1870. I am unable to understand how he can be so exact about the time at which he claims to have met McNair in Kansas.

The witness Charles Glass does not fix any date upon which he has seen These applicants or their father in the Cherokee Nation. He only says he did not see them in 1866. I have been in the Cherokee Nation for a number of years and I suppose several thousand people could be found who could testify that they had never seen me here.

By the witnesses W. B. Rider, Edward Byrd and Lewis Wolfe the Cherokee Nation seeks to establish a case of hog stealing against some of these applicants. It wants to show that they stole the hogs but got out of it because the court had no jurisdiction to try them. Well, I do not know whether they stole the hogs or not or if they did how they got out of it. There is no record of any trial offered in testimony, and the facts are immaterial to this case. Does not throw any light upon the

question as to when these applicants returned to the Cherokee Nation. None of these witnesses saw applicants or their father before the fall of 1868, according to their own testimony. Therefore they are in no position to say when they did return to the Cherokee Nation.

All the testimony in this case was taken May 11, and 13, 1902; and more than a year afterwards, on May 19, 1902, the Cherokee Nation, in order to make one more dying struggle resorted to their old scheme and last resort and imported a star witness from Kansas, in the person of the young Real Estate man J. M. Johnson, who should testify that he had seen applicants in Kansas at a time when they were supposed to be in the Cherokee Nation. Although he had not thought of the time these colored people left Kansas for thirty five years he was able to so fully refresh his memory that he could remember the exact year and season of their exodus. He did not erect a monument of twelve stones- one for Moses, one for Andrew, one for Jesse and one for Jerry etc. but being only fourteen years old he recorded in his real estate record a transfer of certain lands which resulted in the removal of a mill from the neighborhood in which these people had lived. It will be seen from the testimony of this witness that he was only about fourteen years old at the time these colored people; that he had had no occasion to remember the time these people left that country until his attention was called to the fact just the week before he testified in this case; that he then refreshed his memory upon the date by the time a certain mill was moved from the neighborhood in which the McKain family had lived, and would have you believe that he kept a record of the transfer of real estate from which he could determine when said

mill was moved from that neighborhood. Witnesses memory in regard to these people is very indefinite. He only remembers that a number of colored families moved to that country at some time during the war. He does not remember the year in which they located neither does he remember this family as separate and a part from the others except as he claims to be able to refresh his memory by the record of this supposed transfer.

The cases of these applicants had been so consolidated with the applications of the descendants of Katie Ridge and the descendants of Esther Molt as to render a full and fair investigation and determination of the merits of their application impossible. And the system of the Cherokee Nation of "Throwing in" testimony taken in other cases without giving the applicants an opportunity to cross examine or rebut same is wholly unheard of in any tribunal except the Commission to the Five Civilized Tribes.

The applicants herein would respectfully urge that the Honorable Secretary of the Interior fully examine the testimony in the cases of these applicants, separating same from all other applications that have been consolidated therewith by the Honorable Commissioner to the Five Civilized Tribes; that he give applicants a full and fair trial upon the testimony applicable to the case, feeling assured that when that is done it will appear that all of applicants are entitled to be enrolled as Cherokee Freedmen.

If the Honorable Secretary of the Interior should not be of the opinion that the testimony now on file in these applications applicants would respectfully ask that the cases be re-opened

and they given an opportunity

and they given an opportunity to offer additional testimony in support of their said application; that if such opportunity is given they can produce the testimony of William Spriggs, a copy of whose affidavit is hereto attached. Also the testimony of June Martin and Daniel Tucker whose affidavit is on file in your Honorable Department in the case of Emma Purtle, Cherokee Freedmen D 385.

Applicants do not make this motion for re-opening for the purpose of delay but that justice may be done.

Respectfully Submitted.

George P. Fogle

Attorney for Applicants.

Deposition of William Spriggs taken August 25, 1903.

What is your name? Ans. William Spriggs.

How old are you? Ans. I will be 80 years old in Oct. 1903.

Where do you live? Ans. Anderson county Kans.

How long have you lived in Anderson county? Ans. A little over 48 years.

Have you ever held any public office of honor or trust? Ans. I was a member of the territorial legislature, was state senator of the first and second legislatures. State treasurer two terms and judge of the 7th judicial district court.

What is your occupation? Ans. A farmer.

Have you ever kept hired help or tenants on your farm? Ans. Both.

Did you ever have any colored people for help. Ans. yes.

Did you ever have Samuel Riley McNair work for you? Ans. Yes sir.

About what time was this? Ans. In the latter part of 1864 and 1865

What office was you holding at that time? Ans. State treasurer.

On or about what time did Mr. McNair leave your farm? Ans. In spring of 1866.

How did he come to leave your farm? Ans. Congress had passed an act giving the freedmen an interest with the Indians in the lands in the Cherokee Nation, provided they were there by a time specified in the act and I informed him of the passage of the act and advised him to return in time to obtain that interest and he left for that purpose.

Why did you tell him to return? Ans. That he might obtain his interest. And the governor of the state was a citizen of this county and we talked the matter over and he requested me to urge these freedmen to return to the Cherokee Nation.

Did Mr. McNair go to the Cherokee Nation after you advised him?

Ans. He left for that purpose.

Did he ever return to your farm after that? Ans. He returned after an absence of several months for his family.

Did he continue with you or did he leave again? Ans. He left in a few weeks with his family.

Where did he go? Ans. To the Cherokee Nation.

About what time of the year did he leave your place the last time?

Ans. In the fall of the same year.

Did you know any of his family. I was well acquainted with Mose.

He had several other children but Mose is the only one I remember the name of.

William Spriggs

Witness,

Mrs. Clay Spriggs.

Subscribed and sworn to before me a Notary Public this 25th,
day of August, 1905.

Allen Mansfield Jr.
Notary Public.

My Commission expires March 5th, 1908.

(Seal)

COMMISSIONER

DEC 19 1906

FILED

MISSIONER TO THE CIVILIZED TRIBES

MISSIONER TO THE CIVILIZED TRIBES

FILED

DEC 14 1906

 COMMISSIONER

Tarnett Kansas Nov 26th 1866

This certifies that James Curles and Anna
Riley were joined in matrimony by me
this day

Stamp 5 cents }

James N Smith
Pastor of U.P
Church

Filed December 1st /66

J H Williams

Clerk

State of Kansas }
Anderson County } J H Sliver Probate
Judge within and for said County
hereby certify that the foregoing is a
true and correct copy of Certificate
of marriage of James Curles and
Anna Riley as the same appears of
Record in my office.

Given under my hand and
Seal of said Court this 20th
day of August 1906

J H Sliver
Probate Judge

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Moses Riley et al
as Cherokee Freedmen.

R E Q U E S T.

Comes now the applicants and represent to the Honorable Commission
that Alanson Simons who resides in the vicinity of Garnett Anderson
County Kansas is a very material witness in the case of Moses Riley
et al; that said Simons is now Eighty years old and during the past week
has been very sick at his home but is at this time reported as being
some better. That on account of his age and on account of his illness
even if he should recover immediately it will be impossible for him to
make a trip to Muskogee to give his testimony at the trial of this cause
and in as much as the Honorable Commission will cause the testimony of
Judge William Springs to be taken at his residence in the near future
we therefore move and request that while the Representative of the Com-
missioner is at Garnett to take the testimony of Judge Springs that he
also take the testimony of Alanson Simons while at Garnett on this trip.

The testimony proposed to be given by the said Simons is set out in
the affidavit given by him in support of the motion for rehearing in the
Riley case which is on file in your office.

Respectfully,

Starr & Patten

Attorneys for Moses Riley et al.

*Service of a copy
accepted 10/18/06
W. M. Nash
att'y for Ch. H. H.*

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Moses Riley,
et al., as Cherokee freedmen.

Protest of the Cherokee Nation.

Comes now the Cherokee Nation and most respectfully protests against the granting of the request this day filed with the Commissioner to the Five Civilized Tribes, asking that the testimony of Alanson Simons who resides in the vicinity of Garnett, Anderson County, Kansas, be taken at Garnett, Kansas, at the time of the taking of the testimony of Judge William Spriggs:

First. For the reason that the facts stated in the request are not sworn to.

Second. There is no sufficient showing that said witness, Alanson Simons, could not be in attendance before the commissioner to the Five Civilized Tribes when the same is set down for hearing, and

Third. Because the case has not been set down for hearing at this time and it would therefore be impossible for the attorneys for applicants to state whether or not the witness could be in attendance when the same is set down for trial.

Respectfully submitted,

W. W. Haskins

Attorney for the Cherokee Nation.

*Received copy as filed
18th day of October, 1906.*

*Stan V. Hargis
by J. J. Patton*

IN THE DEPARTMENT OF THE INTERIOR

WASHINGTON.

In the matter of the application for the enrollment of Moses Riley et al as Cherokee Freedmen.

R E Q U E S T.

Comesnow the applicants, by their Attorneys, Starr & Patten and McGowan, Serven & Mohun and represent to the Department that Alanson Simons, who lives near the residence of William Spriggs in the vicinity of Garnett, Anderson, County, Kansas, is now about eighty years of age, that he has during the past two weeks been very ill and is still confined to his bed, the nature of his illness is such that his physician advises that he will not be able during the next few months to make a trip to Muskogee, Indian Territory, to give his testimony in this case; we further represent to the Department on in August we requested the Department to provide for the taking of the testimony of Judge William Spriggs at his residence near Garnett Kansas and this request has been granted and the Commissioner to the Five Civilized Tribes will in the very near future, so he advises us, send a representative to the home of Judge Spriggs to take his testimony.

Since these applicants will lose the valuable testimony of Alanson Simons, unless it can be taken at his home at the same time the testimony of Judge William Spriggs is taken we have the honor to request the Department to provide for the taking of the testimony of Alanson Simons at the same time the testimony of Judge William Spriggs is taken at Garnett, Kansas, since this can be done at the same trip and without extra trouble or expense. Alanson Simons is a man of high standing and was a neighbor to Judge Spriggs in 1866.

Respectfully,

Starr & Patten
McGowan, Serven & Mohun

Attorneys for Moses Riley et al.

DEPARTMENT OF THE INTERIOR
RECEIVED

Enc. No. 11 of No. 133-11
INDIAN TERRITORY DIVISION

THE SECRETARY OF THE INTERIOR

WASHINGTON

RECEIVED

1906

TO THE SECRETARY OF THE INTERIOR
FROM THE COMMISSIONER OF THE INDIAN TERRITORY
SUBJECT: [Illegible]
[The following text is extremely faint and largely illegible due to the quality of the scan. It appears to be a memorandum or report detailing land matters, possibly related to the Cherokee Nation, as suggested by the word 'CHEROKEE' visible in some of the lines.]

RECEIVED
OCT 10 1900
U.S. DEPT. OF JUSTICE
INDIAN TERRITORY
U.S. DEPT. OF JUSTICE
OCT 10 1900
United States of America,
Indian Territory,
Northern District SS

On this 10th day of October 1900 personally appeared before me the undersigned Notary Public within and for the Northern District of the Indian Territory, J. C. Starr, of the lawfirm of Starr & Patten, who being by me duly sworn according to law upon his oath deposes and says: "My Name is J C Starr my age is thirty-six years and my post office is Vinita, Indian Territory. I am one of the Attorneys for the applicants in the Cherokee Freedmen consolidated enrollment case of Moses Riley et al. that I have made diligent inquiry into the present condition of Alanson Simons and find that he has had a bad sick spell but is now getting better and I was advised by his people and neighbors and by those who consulted his physician that it would be impossible for him to make a trip to Muskogee, Indian Territory during the coming winter months on account of the serious condition of his health. Said Alanson Simons lives in the neighborhood near where William Spriggs lives. That he is an important witness in the case of Moses Riley et al; that he is a man of high standing in the community in which he resides."

" His testimony in brief will be as shown in the affidavit given to him in support of the motion for rehearing that was filed in this case I have examined the copy of the affidavit hereto attached and same is a true copy of the original."

J C Starr
Subscribed and sworn to before me this 10th day of October 1900.
Notary Public.

DEPARTMENT OF THE INTERIOR
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OCT 1 1906
Enc No. 3 of No. 13211
INDIAN TERRITORY DIVISION

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State of Kansas

Anderson County, SS.

Alanson Simons of Garnett, Anderson County, Kansas, being duly sworn, deposes and saith that he is 79 years old (past), and has been a resident of Anderson County, Kansas, since the year of 1856; that he was well acquainted with Jim McNair, and his mother, known to him as Granny McNair; that they lived on his farm during the war; and that he worked for me most of the time for two or three years. The last year he lived on my farm, Riley McNair sent his team after Jim McNair, and his mother, and a girl they called Hagar, to take them to the Cherokee Nation. From the best of my recollection, the party that came back after Jim McNair, and mother, and the girl was Moses McNair, son of Riley McNair; and place for the Cherokee Nation.; this was about October 1866."

"The reason that I am sure they left in 1866, is that my son Fred Simons was born in January, 1866; and that he was a small baby, and the girl Hagar was very much attached to the baby, because she had taken care of him that summer, and cried so hard when she went to leave."

"I know that these parties left with the expressed intention to go to the Cherokee Nation at this time, and further deponent saith not."

Alanson Simons.

Subscribed and sworn to before me this the 3rd day of May A D 1908.

Allen Mansfield Jr

Notary Public.

(Seal)

My Commission expires on the 5th day of March, 1908.

Copy.

"The reason why I am doing this is to get the son of a bitch out of the country."

1. General : Notes are given

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DEPARTMENT OF THE INTERIOR
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1885
Exo No. 100 No. 13211
INDIAN TERRITORY DIVISION

Department of the Interior,

Oct. 25, 1885

Respectfully referred to the
Commissioner to the Five Civil-
ized Tribes for consideration
and appropriate action.

John C. Wilson
Assistant Secretary
WLS

IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss.

Proof of Service.

J. C. Starr of lawful age, being duly sworn, says that he deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered to W. W. Hastings, Attorney General.

at Muskogee I T as shown by the receipt of the postmaster hereto attached. Which said postoffice is shown ~~by the records of the Attorneys for the Cherokee Nation~~ to be the postoffice of the party to whom said envelope was mailed.

Subscribed and sworn to before me this 19th day of October 1906

Commission Expires Dec. 4, 1909

J. C. Starr
Notary Public.

TO THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

You are requested to enter Starr & Patten, of Vinita, Indian Territory, as my sole attorneys representing me in the matter of my application for the enrollment of myself and those I represent as citizens of the Cherokee Nation.

Walter D. King

Dated at Vinita, Indian Territory,
this 24th day of October, 1906.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Moses Riley et al as Cherokee Freedmen.

MOTION.

Comes now the applicants and move the Honorable Commissioner to send a Representative to the residence of Alanson Simons, in the Vicinity of Garnett, Kansas for the purpose of taking his testimony in this cause

Statement.

The witness Alanson Simons is one of the witnesses whose affidavit, was filed in support of a motion for rehearing in these consolidated cases and for the purpose of determining the materiality of his statements and showing what his testimony will be reference is made to his affidavit filed in support of the motion for rehearing which is now on file with said motion.

Alanson Simons is very ill at this time and is wholly unable to get out of his house and in as much as it is reasonable to presume that the case of Moses Riley et al will be set for trial within the next sixty days we can assert that Simons will be unable during the coming winter to make the trip to Muskogee.

We have been advised by the Honorable Commissioner that our request to the Department of the Interior for Taking the testimony of Judge William Spriggs at his residence had been granted we ask that while the representative of the Commissioner is taking the Spriggs testimony that he also take the Simons testimony for the reason that they both live in the same community and the one trip can be made out of Garnett to both the residence of Simons and the Residence of Spriggs conveniently, and can both be reached easily from Garnett without extra expense.

Respectfully,

Starr & Patten

United States of America,

Indian Territory

Northern District SS

On this 22nd day of October 1908 personally appeared before me the undersigned Notary Public, J C Starr who on oath says that he is one of the Attorneys for applicants in the cases of Moses Riley et al, that this motion is not made for the purpose of delay but is made in good faith in order that justice might be done.

J. C. Starr

Subscribed and sworn to before me this 22nd day of October 1908.

[Signature]

Commission Expires Dec. 4, 1909

Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

United States of America,
Indian Territory
Northern District SS

J. C. Starr of lawful age being duly sworn on his oath says:

"My name is J. C. Starr, my age is Thirty-six years and my post office is
is Vinita I T I have read the statements made in the foregoing motion
and same are true as I verily believe."

"I have made investigation and have had a man to make diligent
inquiry at Garnett Kansas as to the condition of the health of Alanson
Simons and it is the opinion of all of whom I have made inquiry that
said Simons on account of a serious illness that he has been going
around during the past two or three weeks, will be unable to attend a
trial of the cases of Moses Riley et al during the coming winter at
Mustoge I T and unless the Honorable Commissioner to the Five Civilized
Tribes will cause his testimony to be taken at his residence the appli-
cants will lose this important testimony."

J C Starr

Subscribed and sworn to before me this 20th day of October 1908.

Commission Expires Dec. 4, 1909

[Signature]
Notary Public.

United States of America,
Indian Territory
Northern District SS

James Manspeaker of lawful age being duly sworn on his oath deposes and says:

"My Name is James Manspeaker, my age is sixty-six years and my post office is Mount Ida, Anderson County, Kansas. I am personally acquainted with Alanson Simons and I was in Garnett Kansas on October 1906 and at that time Alanson Simons was a very sick man and at that time he was not expected to live. I talked with his physician Dr Schoonover, in Garnett Kansas making inquiry about the Condition of Mr Simons and his physician advised me that Mr Simons was in an awful bad shape and the doctor at that time had very little hopes for the recovery of Mr Simons--He entertained fears that Simons would not recover.. I talked with a great many of the neighbors and relatives of Mr Simons and was advised by them all that if Mr Simons recovered from this attack that it would be a long time before he could ever get away from his home because of the nature of the disease from which he was suffering. I asked them if he would be able if he recovered soon to make the trip to the Indian Territory to the Riley Trial and I was advised by his neighbors that they did not believe now that he would ever be able to make the trip to Indian Territory even if he recovered from this illness. During the last few days I have been advised that Mr Simons is gradually gaining strength and is some better now."

James Manspeaker

Subscribed and sworn to before me this 20th day of October 1906

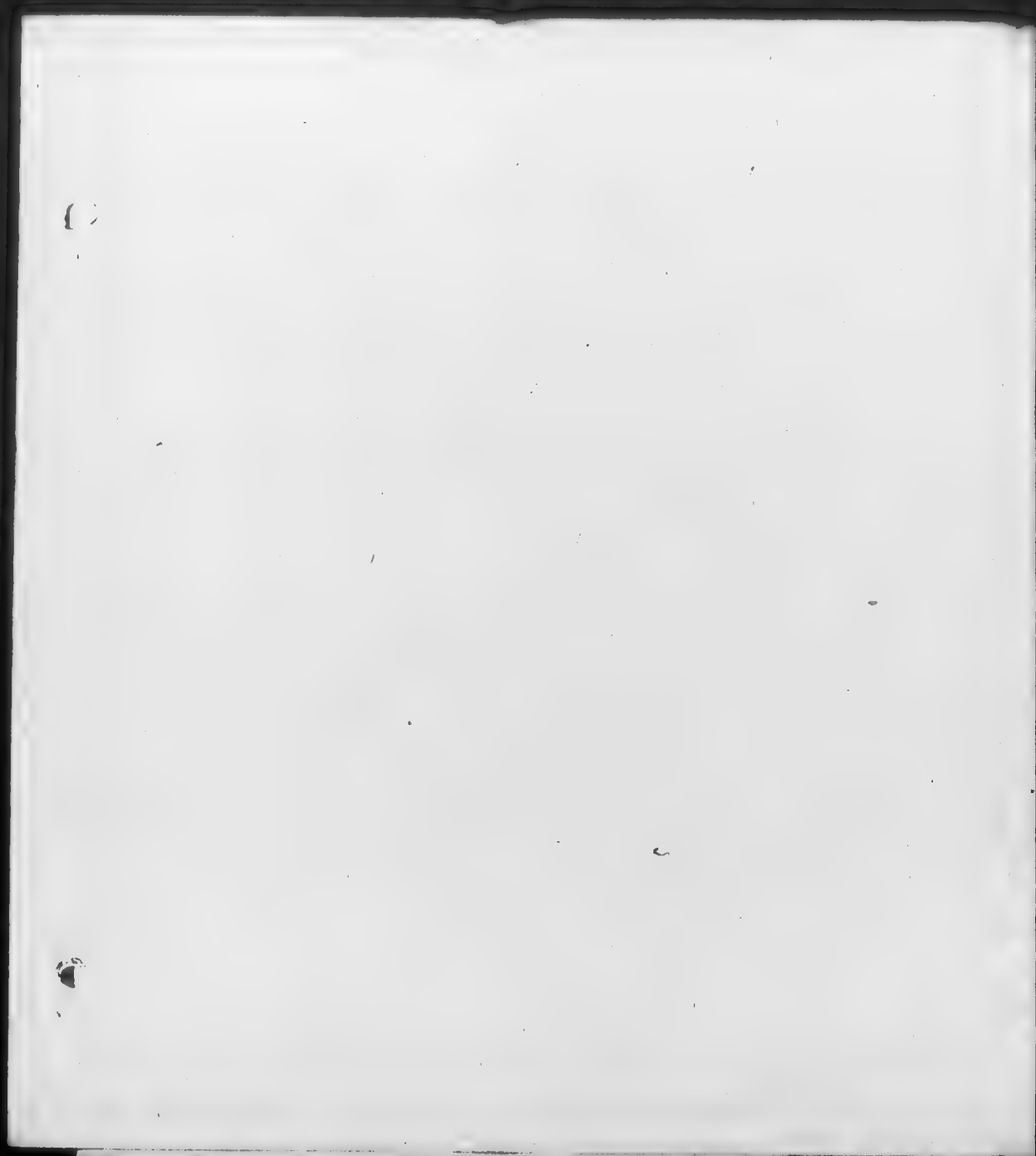
Commission Expires Dec. 4, 1909

[Signature]
Notary Public.

I, W. W. Hastings, Attorney for the Clarence Nation, do hereby accept
service of this writ and return the writ of habeas corpus.
dated at Muskogee I T October 23rd 1903.

W. W. Hastings

Attorney for the Clarence Nation.



DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
~~XXXXXXXXXXXXXXXXXXXX~~
GARNETT, KANSAS, OCTOBER 26, 1906.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of MOSES RILEY, ET AL., as Cherokee Freedmen.

APPEARANCES:

For Applicants, Starr & Patten.

For Cherokee Nation, W. W. Hastings.

The records of this office show that on July 9, 1906 (I.T.D. 17884-1906), the Secretary of the Interior remanded this case for a further hearing. At the request of Attorneys for Applicants, this case was set for hearing at Garnett, Kansas, for the purpose of taking the testimony of William Spriggs and Alanson Simons, on October 26, 1906, at which time and place the following proceedings were had.

A. SIMONS, being first duly sworn by Allen Mansfield, Jr., a Notary Public for Anderson County, Kansas, testified as follows on behalf of applicants:

BY MR. PATTEN:

- Q State your name? A A. Simons.
Q How old are you Mr. Simons? A 79 and two-thirds.
Q Where do you live? A Garnett, Anderson County, Kansas.
Q How long have you lived in the vicinity of Garnett, Kansas?
A Well I have lived here 50 years, Garnett wasn't here all that time, but substantially that.
Q Where were you living in the year 1866? A '66.
Q Yes sir? A Right here.
Q Where you are now living? A Yes sir.
Q At that time, or thereabouts, did you know a colored man by the name of Jim McNair or Jim Riley McNair? A Yes sir.
Q Where did he live? A He lived here on my place.
Q How long did he live on your place? A Well he lived here two years at different times, one year during the war, or his family, what he had,---his mother and grand-daughter lived here while he was gone in the army, and then he lived here in the year '66, worked for me in the year '66, summer of '66.
Q Who did he have with him, if any one, did you know? A His mother lived with him and their grand-daughter.
Q Do you remember his mother's name? A Peggie.
Q Do you remember his grand-daughter? A Nager.
Q You say he lived here in the year 1866, when did he leave here, do you know? A Late in the fall of '66.
Q Do you know how he left, or any circumstances connected with his leaving? A In a wagon and horses of his own and another team said to have been owned at the time by his brother.
Q Who was that? A His brother went by the name of Riley.
Q Where did his brother live before that? A On Mr. Spriggs place over here, but a year or two before that he lived on this farm right west of me here for one year and then went to Mr. Spriggs' place.

- Q Was it his brother, this Riley that you speak of, or any of his family, or who was it that came for him? A Well it was a colored boy. He was said to be one of old man Riley's boys.
- Q You don't know his name? A No sir, I don't recollect his name at that time. I have heard his name stated since, but I don't know if that was it or not.
- Q What name have you heard stated since?

Mr. Hastings: I desire to object to what he has heard stated since because it does not show who has stated it and whether it was stated by some one in the interest of these claimants or not, and therefore it is inadmissible.

On Behalf of the Commissioner: The objection will be noted.

- Q Now Mr. Simons, the name that you have heard stated since, do you remember who you heard it from? A Told me so himself.
- Q That is one of the applicants told you so himself? A Mose told me so himself, at least a fellow here afterwards told me his name was Mose Riley and that he was here with a team and helped Jim move.
- Q But at the time in 1866 you understood it was one of old man Riley's family that used to live on Gibson's place, you are testifying that from your own recollection? A Yes sir.
- Q Now you say he left in 1866, the fall? A Jim.
- Q Yes sir, now what if any circumstances was there that makes you remember it was 1866 other than '66 or '68 or '60, or any other year? A Well there was some. There was one circumstance that particularly fixes the thing in my mind, my oldest son was born January 21, 1866, and Hager was a young papoose mocking around and she stayed here and helped take care of the baby. They lived right down below here the biggest part of that summer and up until the time they went away, and she thought he was the greatest baby on earth and cried over him and made a great deal of fuss about leaving him. My wife knows all about the circumstance.
- Q You know then it was the fall of the same year that Fred was born? A Yes sir, I think I know it.

BY MR. HASTINGS:

- Q Then you have got no data or anything to go by just other than your own independent recollection, have you Mr. Simons? A Why not in that respect. We have a record of the birth of the baby.
- Q Well who was Jim McNair? A Jim McNair was a young colored man belonged to the old lady is all I know about him. His mother that lived with him.
- Q What was his mother's name? A Peggie Riley they called her when they give her a name at all.
- Q You didn't know Riley McNair himself? A Yes sir, I had seen him but never particular had anything to do with him.
- Q You don't know when he left this country of your own knowledge? A Not to my own knowledge, general report is all I know about it.
- Q You are not intending to testify then when he left here? A No sir.
- Q Now what relation was this Jim Riley to Riley McNair? A I couldn't tell you, he passed and they called one another brothers. Jim recognized him as his brother.
- Q When were you first talked to with reference to this case? A This case, I don't know as if I was talked to --by who or when?
- Q Anybody with reference to what you knew about it? Mr. Patten or Mose Riley talk to you about it? A Yes sir, I think Mose Riley was the first one that I recollect said anything to me about it.
- Q When was that? A It must have been a year ago or such a matter.
- Q When did the Attorneys for Riley ever speak to you about it?
- A Why not until this summer sometime.

- Q You made an affidavit with reference to it? A I did to suit Nese, he wanted one and said he was up for that purpose and wanted to know what I recollected about it and I told him and he asked me if I would make an affidavit to it. He went to town and got a lawyer and I made an affidavit to it. It was got up in a very irregular form.
- Q Have you any other children except Fred Simons? A Yes sir.
- Q How many other children have you? A I have three others.
- Q Are they older or younger than Fred? A Younger.
- Q How much younger is the next one? A The next one was born in '69 I guess, or the latter part of '68, I aint sure which now.
- Q Do you remember the month the next one was born? A No sir, but I could find the record for you.
- Q But you don't remember of your own independent recollection when it was? A I think it was in the fall of '69 I guess.
- Q Your memory is getting to be a little faulty? A Why it is, yes sir, more or less.
- Q How about your third child when was it born? A It was born in '76 I guess.
- Q What month was it born? A I don't recollect. If it is absolutely necessary I can get you the record.
- Q I was just seeing if you could remember it of your own independent recollection? A I can remember old things except dates, of course I never charged my memory with dates.
- Q Now you never had no occasion to charge your memory with this Jim McNair except that you know that one of them had an affection for your little child Fred? A Yes sir.
- Q Now you have no record here about your place as to when Jim McNair left? A No sir.
- Q And the only thing that makes you believe he left at the time you say is because he left at the time of the birth of your child Fred? A I say that is one thing that makes me fix it positive in my mind.
- Q That is the only thing? A No sir, there are other things.
- Q I mean that is the only thing that you have a record of? A Yes sir.
- Q How many years did Jim McNair work for you? A Two or three years, he worked for me, one summer and went off of my place to the army.
- Q What summer was that? A It was '63 I think.
- Q Are you right positive of that? A Why no, it might have been---
- Q Might have been 1864? A Yes sir, might have been.
- Q Did he work for you afterwards? A Worked for me in '66 after he come out of the army.
- Q What time did he come out of the army? A He was discharged sometime in the latter part of '65.
- Q Do you remember what time? A I don't, I wasn't there.
- Q Do you remember what time he came here? A He came back here in the latter part of '65.
- Q I was trying to get you to be a little more definite than that, can you fix the month? A No sir, I don't do that, I wasn't following him up, all of his movements.
- Q That is what I thought, it has been a long time ago? A Yes sir.
- Q Do you know where he made a crop the next year? A He didn't make any crop, worked for me the next year.
- Q Then, of course, you don't know of your own personal knowledge where he went from there? A Certainly not, I know where he purported to go.
- Q I am asking your own personal knowledge? A I didn't follow him, no sir.

- Q You don't know of your own personal knowledge who came after him? A I know he afterwards came back here and said he was down in the Nation.
- Q When did he afterwards come back here? A Two or three years afterwards.
- Q Well what year? A I don't know.
- Q Got no memory at all about the year that he returned? A No sir, I didn't think it necessary for me to have any memory in regard to that.
- Q Now you have got no recollection at all about Riley McNair?
- A Who was he, the older one.
- Q I say you have no recollection about him at all? A I don't know, who you mean.
- Q I ask you if you had any recollection at all about Riley McNair?
- A I know a man by the name of Riley, said to be a brother of Jim.
- Q I say you have no recollection about him? A The general name he went by was Riley and Jim went by Jim.
- Q I say you have no separate recollection about when he went away?
- A No sir.
- Q And you are not attempting to testify about that? A No sir, not at all.
- Q And you don't know who claimed to go after Jim except from heresay as you testified? A Yes sir.
- Q And that was what Mose should have told you a year or two ago?
- A Yes sir, Mose told me he was the boy that come after him. I know a boy come with a team to help him move, but as to the little nigger's name I didn't inquire.
- Q Mr. Simons, do you remember who was on your place in 1870?
- A I was here myself.
- Q Well did you have any help? A No sir, in '70 I wasn't here.
- Q Then you were mistaken about that? A Yes sir.
- Q Well were you here in 1873? A I was here in the country in '70. but not on this place.
- Q Were you on this place in 1873? A Yes sir.
- Q What help did you have that year? A I don't know.
- Q Were you here in 1883? A Yes sir.
- Q What help did you have that year? A I had my own help principally.
- Q Do you remember whether you had any other or not? A I had men at different times. I had no regular help.
- Q I beg your pardon and I hope you won't be impatient, I am only asking you to show if you knew who you had there, for instance in 1883? A I don't know who worked for me in '83.
- Q Do you have any idea who worked for you in 1876? A Perhaps 25 different men at different times.
- Q Do you have any recollection of who worked for you in 1867?
- A No sir, ---in '67?
- Q Yes sir? A You jump backwards and forwards I answer so quick.

ON BEHALF OF THE COMMISSIONER:

- Q Mr. Simons did you ever see this man who you afterwards learned to know as Mose Riley in this country, say a few years after the war? A Not until about a year ago. Never seen him to know him. Seen a good many negroes but I didn't inquire every negro's name I saw. Never saw Mose Riley until a year or two ago, he was here and told me that was his name.
- Q If he was in the country before that, you don't know it? A No sir.
- Q This Jim Riley, did he ever come back up in this part of Kansas?
- A Jim McNair?
- Q Jim McNair? A Yes sir, he was back once.

- Q Do you remember about how long after the war it was? A It was several years.
- Q Do you know about how long he stayed? A (Mrs. Simons, wife of witness, suggest that Mr. Simons was County Treasurer when Jim McNair was back to Kansas). If that is correct I was County Treasurer during the years '68 to '72, and if she reminds me correctly it was during those years.
- Q Mrs. Simons says you were County Treasurer when he was back?
- A Yes sir.
- Q Since your memory has been refreshed can you state how many years he was back the time you were County Treasurer. Do you know about how long he stayed when you were County Treasurer?
- A I don't know how long he stayed, no sir. I know he come to see me and told me what he was doing down there.
- Q Do you know whether he paid any taxes while he was here that time? A I don't suppose he did, I don't recollect, he didn't have anything to pay taxes on. The later time you mean or the former.
- Q The latter part of the time? A Of course he didn't, he was just here on a visit of some kind of business of some kind.
- BY MR. PATTEN:
- Q Were you in the army Mr. Simons? A Yes sir.
- Q How long did you serve in the army? A A couple of years.
- Q As a private? A No sir.
- Q What capacity did you serve? A Lieutenant.
- Q What regiment were you in? A Eleventh U. S. Colored Troops.
- Q How did you remember about any one coming after this Jim McNair, I believe you said that a colored boy came after him? A Yes sir.
- Q Now irregardless of what year Jim McNair left, are you positive he left the same year that Fred, your son, was born? A Yes sir.

Mr. Hastings : Objected to because the question is leading.

On Behalf of the Commissioner: The objection will be noted.

- Q Mr. Simons you may examine that Bible and state whether or not it belongs to you and is in your possession? A I don't know anything about it.
- Q Is not that your Bible? A I don't know whether it is or not.
- Q Can't you see it? A I see it, yes. I don't know whether it is mine, I don't, I am sorry to say, I don't handle a Bible often enough to recognize it.
- Q You don't take care of the Bible here? A No sir. If you found it in my house it is probably mine.
- Q Mr. Simons, this girl Hager that was with Jim McNair when he lived on your place, did she leave with him? A Yes sir, she ~~kind~~ left here with him.
- Q Left at the same time he did? A Yes sir.
- Q Have you ever seen her since? A I have not.

BY MR. HASTINGS:

- Q You mean she left your place with him? A Yes sir.

Mr. Patten: We are through with this witness.

Mr. Hastings: The Cherokee Nation is through.

Mr. Patten: The Attorneys for applicants now offer in evidence a page of an old Bible found in the home of the witness and ask that that part of the page relative to the birth of Fred Alanson Simons be made a part of the record in this case.

Mr. Hastings: Objected to by the representative of the Cherokee Nation first for the reason that the witness, Alanson Simons, does not identify the Bible. Second, for the reason that if it is tried independent there is no order from the Commissioner to the Five Civilized Tribes for it to be taken. Third, because the page in the Bible needs to be cross-examined, for it admittedly shows that the name of the child mentioned, together with the date has been more recently than the date of the birth, either made anew or retraced in the Bible, and therefore the Bible would not be sufficient evidence of itself.

Mr. Patten: The Attorneys for applicants object to that part of the statement made that it admittedly shows that it has been more recently written anew, and state that we admit, on behalf of the applicants, only from information that this date in the Bible is subject to cross-examination for the reason that it has been retraced since first written.

Mr. Hastings: In reply the representative of the Cherokee nation desires to call the attention of the Commissioner to the fact that the Attorney for applicants admit that it is subject to cross-examination and if that be true, it is clearly not admissible.

Mr. Patten: In reply the Attorneys for applicants have voluntarily stated and admitted that this record is subject to cross-examination because of information coming to them that this hand writing had been retraced in order to preserve it since first written years ago, and made this admission because the testimony was being taken in the house and at the home of Alanson Simons, and the witnesses who we propose to subject to cross-examination for the Attorney for Cherokee Nation are present in the same house and he refuses to agree to allow them to be examined and take their cross-examination.

Mr. Hastings: The Attorneys for the applicants know that we cannot take the testimony of other witnesses other than those ordered to be taken by the Commissioner to the Five Civilized Tribes, nor have they applied to have this testimony taken.

On Behalf of the Commissioner: As representative of the Commissioner I desire to state that I have no authority whatever to take the testimony in the State of Kansas of any witnesses other than Alanson Simons and William Spriggs, notice of the taking of whose testimony has heretofore been given to the Attorneys for applicants in this case and the Attorney for the Cherokee nation. I would have no more authority to take the testimony of these witnesses on behalf of the Cherokee nation than I would on behalf of the applicants. The Bible from which the entries are sought to be introduced in the record has not been properly identified and it will therefore not be made a part of the record in the case.

A. SIMONS RECALLED:

BY MR. PATTEN:

- Q Now Mr. Simons examine this Bible again very closely and state whether or not it belongs to you or your family? A I would say that part of it did.
- Q What part? A These records, I don't know who else they would belong to, he would have no right to them.

- Q Are you certain that that belongs to you and your family? A I am undoubtedly. These records do not belong to anybody else and have never been preserved by anybody else all this time.
- Q And when you stated before that you didn't know whether it was or not and now state that you do know, how did you happen to make that statement? A I didn't recollect the book, you didn't give me the book you just held it up. There are lots of Bibles with the same backs. I don't know where you got it, whether you brought it here in your pocket or got it from some other people.
- Q But since you have examined it in your hands more closely you are positive are you that all those records are yours? A I am positive that those records are mine. They might be leaves out of some other Bible.
- Q You are positive those records are yours? A They are mine undoubtedly.
- Q Examine the record in that bible relative to the date of your son Fred's birth? A Yes sir, I have looked at that. I believe that that is absolutely correct.
- Q Was that record made at the date of his birth, near the time that he was born, or do you remember? A I think it was, yes sir.

Mr. Hastings: Objected to for the reason that this witness has not yet stated that he made that record or that he knew when it was made or that who did make it.

On Behalf of the Commissioner: The objection will be noted.

- Q Do you know Mr. Simons who made the record? A Well I cannot say positively but I am pretty sure that all those records are my own hand writing, and they were made, I don't recollect as to the exact time they were made, it might have been within any time in a few months after the birth. But I am positive those records are all my own handwriting, every one of them.

Mr. Patten: The Attorneys for applicants now offer in evidence the record in this Bible relative to the date of the birth of Fred Alanson Simons. Ask that the record show what the record in the Bible shows.

Mr. Hastings: For the purpose of offering some objections I desire to first further examine the witness.

BY MR. HASTINGS:

- Q Mr. Simons when that Bible was presented to you upon your direct examination didn't you say under oath that you didn't know whether that was your Bible, that you hadn't seen the Bible for a long time and that you were not in the habit of inspecting or reading it? A No sir, I didn't say any of that.
- Q Is not that the reason why you then gave for not being able to identify that Bible? A I said I couldn't identify that Bible because he just showed me the outside of the old worn out Bible, and for that reason I couldn't recognize it.

(Here the stenographer read the questions and answers to the witness relative to the identity of the Bible upon his direct examination).

- Q I will ask you if you didn't say in your direct examination if one of the reason you said you didn't recognize that Bible was, I Don't handly the Bible often enough to recognize it." Is that true? A It is true with reference to that Bible.

- Q You don't handle this book often enough to recognize it? A Not this particular book. You mean this particular book?
- Q Yes? A No sir, I don't handle it very often, haven't handled it for a long time.
- Q Then you don't handle it often enough to recognize it? A I don't know, now and then, I didn't see the Bible when I made that answer. I just saw the covers of that old book.
- Q Were not you told it was a Bible? A I wasn't swearing to what I was told by somebody else, swearing to what I know myself. If that was a trick to get an answer to catch me about something,--- if I had seen that Bible as I have seen it since I would not have made that kind of an answer.
- Q Wasn't it handed and offered to you when you made that last reply? A It was shown to me just in the old cover.
- Q And wasn't it handed toward you at that time? A Certainly it was.
- Q Extended to you? A Yes sir.
- Q And when you made the above answer? A And I was told by somebody else it was an old Bible.

Mr. Hastings: Objected to for the reason that the witness does not identify it. Second, that the witness does not state that the entries were made at the time. Third, that he does not tell when the entries were made.

Mr. Patten: We refer to the record that the witness has identified the record in this Bible; that the entries are in his handwriting and to that portion of his testimony relative to that being made within a few months of that time at least.

ON BEHALF OF THE COMMISSIONER:

- Q Mr. Simons I will ask you to look at this here again close and see whether you can see that this part along there, if not all of that other part has been retraced. If there is not some lead pencil marks underneath there? A There appears to be some marks there but they don't look like,---there is something there but I can't make out anything definite.
- Q Looking at that and these others again, can you state whether these have been first put down in lead pencil and afterwards retraced? A Some fine marks appear to be under that. There is something in there that would indicate something of the kind just underneath the latter end of that name. There are some marks I can see under this other name but they are indefinite. My eye sight is not definite enough to make much out of that. It may have been possible.

On Behalf of the Commissioner: The particular entry recorded in this Bible is as follows: "Freden Aanson Simons, Born January 23rd, 1866." It is impossible to identify whether it is an original entry or whether a part or all of it has been retraced, or whether lead pencil marks or writing has been made over the entry.

BY MR. HASTINGS:

- Q I will ask you Mr. Simons to examine that page and state now under oath whether or not it is your opinion that that writing appears to have been all placed there upon the same date by the same ink and the same pen? A All those names?
- Q Yes sir, I mean the entry in the book made, don't that appear to you the color of the ink and the condition of the handwriting, etc.? A Oh I think not, I don't know, I can't see.

- Q I was just trying to call your attention that this writing here didn't look like that writing, and the shade of the handwriting didn't look like the writing was put there at one and the same time? A That writing appears somewhat different and a little more carefully made than this down here.
- Q Down to here, the first half of the page, down to there? A It is possible.
- Q Then this page shows dates of births from 1862 to 1875, doesn't it? A Yes sir.
- Q And all on the same page? A Yes sir.
- Q Then Mr. Simons, as I understand you, you are not prepared to state when these entries were placed in this book? A No sir.
- Q They may have been placed there all at one time? A Yes sir, they may have been.
- Q You don't know, haven't any distinct personal recollection of there being put in this book? A No sir, I have no personal recollection of their being put there only from the fact that they are there. They must have been put there at sometime, but that time, I can't tell you anything about that.

W I T N E S S E X C U S E D .

WILLIAM SPRIGGS, being first duly sworn by Allen Mansfield, Jr., a Notary Public for Anderson County, Kansas, testified as follows:

BY MR. PATTEN:

- Q State your full name? A William Spriggs.
- Q Your postoffice address? A Garnett, Kansas.
- Q How old are you Judge? A I was 81 the 11th day of this month.
- Q How long have you lived in the vicinity of Garnett, Kansas? A Well it will be 60 years next spring.
- Q Where were you living in 1865 and '66? A I was living on a farm near Garnett, well in 80 rods of the townsite corner.
- Q What, if any, official positions have you held in Kansas? A Well the first official position I held was a member of the Constitutional Convention, and next I was a member of the Territory Legislature, and next I was State Senator, and the next I was State Treasurer for two terms, then I was Judge of the District Court here awhile.
- Q In 1865 or '66, ~~the~~ or both years, did you know a colored family by the name of Riley? A Yes sir.
- Q Where did they live? A They lived on my farm near town.
- Q Near Garnett? A Yes sir.
- Q Do you know whether he had any family or not? A He had quite a family, but just how many, I don't know.
- Q Do you remember the names of any of them? A I remember the name of one boy and really that is the only name, that was Nose, and his is the only name that I really remember.
- Q Now Judge do you know how long those people lived on your farm? A I don't, my impression is that they were on my farm from between two or three years.
- Q Did they live on your farm in 1865? A Yes sir.
- Q Did they live on it any part of 1866? A Yes sir, they lived on it the forepart of 1866, and the family until the fall of 1866.
- Q Now do you know when they left Kansas? A They left here sometime in the fall of 1866, just what time I don't remember.
- Q Now Judge go on and state in your own way all that you remember, all the facts that you remember leading up to them leaving and the occasion of their leaving, how they happened to leave and all you know about it? A Well the way they come to leave I was at Tepeka the most of my time, but down to my farm occasionally.

- Q Was that the time you were State Treasurer? A Yes sir. And the Governor,--Governor Crawford, he was also from this County, and myself got in conversation about a bill or a Treaty that was pending at Washington with the Cherokee Indians, and by the terms of which these freedmen were to have a certain interest provided they were there in some specified period or time, just the length of time I don't remember, and there being quite a number of these on my place, a number of families, he suggested that I inform them of that pending Treaty, stating that he was satisfied it would pass and to have them go back down there in time to get their interest under that Treaty, which I did. I come down and I saw Riley, in fact I saw all of them on my place and probably some others and urged them to go back in time to get their rights under that Treaty, and Riley left for that purpose immediately. He was gone-----
- Q About what time did he leave Judge? A I would not be positive as to the time but it was possible it might have been as early as February or more likely in March.
- Q Of what year? A Spring of 1866.
- Q How did he go? A He went a foot.
- Q All right, go ahead? A Well he was gone then all summer, or a great part of the summer, I think quite likely it was in the fall he got back, early in the fall maybe, and he was here awhile, how long I don't remember, he took his family,---well he brought a conveyance up with him, a little yoke of oxen and either a cart or a wagon, something of the kind and he loaded up his family and his traps and left.
- Q And when was it that he took his family? A That was in the fall season.
- Q Of 1866? A Of 1866, yes sir.
- Q Do you remember Judge about when that Treaty was passed? A No sir, I don't but I got the impression lately from some source or other that it didn't pass until in July of 1866.
- Q Now of your own memory back in 1866, take your memory back to 1866, do you remember where old man Riley was when the Treaty was passed, whether he was in Kansas or in the Cherokee Nation? A He was absent, he had left here.
- Q Was it after the Treaty had passed that he came down and got his family? A It was after the Treaty had passed that he come back here and got his family.
- Q Do you remember any one else that you talked with about the Treaty while it was pending besides the Governor? A Yes sir, all those that was likely to know something about it, I talked with Major-General Blunt. He was at Washington most of the time and told me he was doing some business for the Cherokee Nation. He was also from this County and he told me that that Treaty would pass.
- Q That was before it had been passed? A Yes sir, that was before it had been passed.
- Q Do you remember a man by the name of John Gibson? A Very well, we were school mates together in our boy days.
- Q Where did he live in 1866, Judge? A He lived a half a mile east of my place.
- Q Were you neighbors in 1866? A Yes sir.
- Q Do you remember when Mr. Gibson died? A Very well. I remember when he died but I couldn't give you just the day of the month.
- Q About when did he die? A He died in July, 1866.
- Q At the time that Mr. Gibson died do you know where old man Riley was? A He was down in the Cherokee nation I suppose. There is where he went.
- Q That is, he wasn't here? A No sir.
- Q Was his family here? A Yes sir.

- Q Do you remember how long after Gibson died that it was before Riley came back and got his family? A Well it was a month or two or possibly,--well he was back in a month or two and it might have been three months after that before he left here with his family. Just seems to me now as tho there had been some frost before he left but I may be a little mistaken about that.
- Q But you are positive are you that he left with his family the fall of the same year that John Gibson died? A Yes sir.
- Q Were you farming in 1866? A Yes sir, I had a farm cultivated.
- Q Did you have any small grain that year? A I had wheat and oats both.
- Q Do you remember the occasion of you thrashing that year? A Yes sir, I think I do.
- Q Now when you thrashed that year in 1866, do you know whether Riley was here then or not? A They were not.
- Q Had they left at that time? A They had left.
- BY MR. HASTINGS:
- Q I understood you to say that the Rileys had left when you thrashed in 1866? A Yes sir.
- Q What time did you thresh in 1866? A I don't recollect but it was ~~XXXX~~ as soon as I could get a machine.
- Q July or August? A No sir, it was in August or September, it must have been September.
- Q You haven't got any independent recollection? A No sir, I haven't of just the time.
- Q Well did you have wheat in 1867? A Oh yes.
- Q Well have you any independent recollection Judge of thrashing that year? A Of 1867?
- Q Yes sir? A I couldn't say that I have any independent recollection of it.
- Q But you know that you had wheat, you were bound to have thrashed it? A Yes sir.
- Q That is the way you reason about 1866, is it? A Yes sir.
- Q And you reason that way about 1868, don't you Judge? A Yes sir.
- Q You have got no personal independent recollection of thrashing those three years? A No sir.
- Q Now Judge you don't remember the exact date of the death of John Gibson, do you? A I do not.
- Q Now Judge there have been a number of other people here around in the neighborhood that were your old friends, and relatives perhaps, that died immediately after the war? A Yes sir.
- Q Well now there is no distinct connection between the Rileys and the death of any of those people, is there? A No sir.
- Q Well there is no distinct connection between John Gibson's death and the Rileys? A No sir.
- Q There is nothing to identify them with his death? A Nothing.
- Q No distinct connection between them and the death of Gibson? A No sir.
- Q Now Judge it has been a long time ago, it has been 40 years, and you are just testifying from the best of your memory? A Yes sir.
- Q You have no records about you showing any transaction with Riley as to when he left? A None at all.
- Q You don't remember the members of his family? A I don't except Mose. They had some other children, but their names I don't remember.
- Q But you only remember Mose from his having come up and talked to you a year or two ago? A No sir, I remember Mose very well from other circumstances.

- Q But he is the only one you did remember? A He is the only name that I remember.
- Q That is what I mean? A Yes sir.
- Q You don't remember his wife's name? A Riley's wife.
- Q Yes sir? A Well it seems to me like he called her Hager.
- Q But you don't recollect it? A I would not be positive. It just seems to me like it was Hager.
- Q Now Judge, your memory has been refreshed by people talking to you considerably about this case in the last year or two, has it not? People have come here to see you and talked to you about it? A Yes sir.
- Q And your memory in reference to the Treaty of 1866 has been refreshed a good deal since they have been talking to you about it?
- A I cannot say that it has. The Treaty,--well yes it has been refreshed because my impression first was that it was an Act of Congress and afterwards I remember that it was a Treaty instead of an Act of Congress.
- Q I will ask you if you didn't make an affidavit in this case before Mr. Mansfield here on the 25th day of August, 1905, a little over a year ago? A Yes sir, I made an affidavit before Mr. Mansfield.
- Q I will ask you if Mr. Clay Spriggs was a witness to that? A Yes sir.
- Q You are the same William Spriggs who made an affidavit at that time? A Yes sir, same man.
- Q You are the only William Spriggs in Anderson County of about your age, say 80 or 81 years? A The only one.
- Q Now at that time you didn't recollect whether or not,----you thought then at that time that the Treaty had already passed when you advised Riley McNair to go to the Indian Territory, did you not? A Did I say that?
- Q Yes sir, I will read your answer. I will just change the question and read it to you. I will ask you if you didn't state in that affidavit in answer to the question referring to Samuel Riley McNair: "Q How did he come to leave your farm? A Congress had passed an Act giving the freedmen an interest with the Indians in the lands in the Cherokee Nation provided they were there by a time specified in the Act, and I informed him of the passage of the Act and advised him to return in time to obtain that interest and he left for that purpose." I will ask you if that question wasn't asked you, and you didn't make that answer at that time?
- A I suppose I did.
- Q Well, at that time, more than a year ago you were then under the impression that Congress had already passed the Act before you advised him? A Yes sir.
- Q Then it was after Congress had made provision for them that you advised him to go to the Indian Territory? A Yes sir.
- Q Then it was the following February or March after Congress made this provision that he left your neighborhood and went to the Indian Territory? A As I supposed it was passed when I made it.
- Q Well it was the following February or March? It was the first February or March after Congress had passed this that he left that your section of the country and went to the Indian Territory?
- A No sir, he left in February or March, 1866.
- Q But you know the Treaty had passed? A No sir, I suppose it had but I found out afterwards that it didn't pass until July.
- Q Who told you it didn't pass until July? A I don't remember.
- Q Some one representing the applicants? A I don't remember.
- Q Has Mr. Patten, representing the applicant talked to you, this gentleman here? A I talked with him but he didn't tell me anything about the Treaty.

- Q Did Mr. Starr talk to you, this gentleman here? A I have, yes.
- Q Since you made this affidavit? A I think it was before.
- Q Has Mr. Patten talked with you since you made this affidavit? A I have had two short conversations with Mr. Starr, one was in the road down here and the other was here at the house.
- Q When was that here at the house? A Well it was after that was made.
- Q It was after this affidavit that I refer to? A I think it was.
- Q Mr. Iler was the Notary Public that come out and I don't remember just when it was,--no, maybe Mr. Mansfield, Mr. Iler was here once.
- Q Then you don't recollect? A Don't recollect what.
- Q When you talked to them or when they were here? A I don't remember the dates.
- Q When did you talk to Mr. Patten here last? A Yesterday.
- Q Did you talk over with him then when the Treaty was passed? A I don't think that I did. I don't think anything was said about the Treaty.
- Q Did you talk about the date that these people left this country?
- A Yes sir.
- Q And you refreshed your memory again from conversation with him?
- A No sir, it didn't do any refreshing.
- Q Well you stated you thought that in August, 1906, that the Treaty had already passed before you advised Samuel Riley McNair to leave that country? A I suppose I did.
- Q You at least swore it? A It seems so.
- Q Didn't you then swear that you had talked with Governor Crawford, who was a citizen of this same County and that he had also advised you about it, and it was because of that conversation and the information that he gave you relative to the passage of the Treaty that you urged these people to come to the Indian Territory?
- A Yes sir.
- Q Then it was after the passage of the Treaty wasn't it? A I suppose it was pending.
- Q Have you got any independent recollection of what month you were talking to Governor Crawford? A It was January or February.
- Q Do you remember that now Judge independent of your own recollection or are you just assuming it was then? A I am very confident it was then.
- Q Are you just judging it was then or have you an independent recollection it was then? A Well I don't ~~immediately~~ exactly understand what you mean by independent recollection.
- Q Well this is what I mean, you are now under the impression that Riley McNair left here sometime in February or March, now then your memory has been refreshed if you had a conversation with Governor Crawford prior to that time. Now are you stating that that was with Governor Crawford in January or February because it must have been prior to the time this fellow left or do you have an independent recollection of this conversation with Judge Crawford? A Well I come down home immediately after the adjournment of the Legislature which was as early as the first days of March. I had to be there to pay them off and as quick as that as ever I come down home to see about my own matters, and it was then before I come that we talked about it.
- Q You know it was before March, do you know how long it was before March? A No sir.
- Q All you know it was before March but you have got no independent recollection of that other than as to the time? A No sir.
- Q Now Judge you state that Sam Riley McNair stayed on your place, some two or three years, you were not certain? A No sir, I am not certain.
- Q Were you in the army? A I was not in the army.

- Q You don't then have any distinct independent recollection when Riley McNair moved upon your place? A No sir, I haven't.
- Q You don't know what year he moved on your place? A No sir, not positively.
- Q Was he in the army? A No sir.
- Q He wasn't in the army? A No sir, not to my knowledge.
- Q Then neither of you were in the army? A No sir. If he was it was before I knew anything about him.
- Q Now you have got no record on your place of the date of the last employment or any record with reference to Riley McNair? A No sir, no record.
- Q None at all? A None whatever.
- Q You are just now, of course, attempting to state from your independent recollection of things that happened 40 years ago? A Yes sir.
- Q Judge can you tell me who was on your place in the year of 1876?
- A I don't recollect of any person on my place in 1876.
- Q Did you own a farm that year? A Yes sir, owned the same farm.
- Q Do you remember who cultivated it for you that year? A Well I had it done largely with hired help. Yes, I do remember, there was a colored man by the name of Jacob Loniam.
- Q Who was on your place in the year of 1872? A I don't know, I don't think I had any tenants in 1872.
- Q Well do you remember distinctly about that? A No sir.
- Q Nor can you remember distinctly about 1874, can you Judge? A I don't think I had any tenants.
- Q Do you know who worked your farm in 1874? A I had a number of hands.
- Q Do you recollect any one that stayed with you throughout the season of that particular year now? A Of 1874?
- Q Yes sir? A Well that was a dry year, I think Mike Hayes was with me all that year.
- Q Are you positive of it? A I am reasonably certain.
- Q Who was with you in 1886? A 1886?
- Q Yes sir? A I had no hands.
- Q Was there any tenant on your place in 1886? A I think not.
- Q Didn't you have a farm that year? A I had the same farm.
- Q Was it cultivated? A Yes sir.
- Q Did you cultivate it or some one else cultivated it? A I cultivated a portion of it.
- Q Who cultivated the rest of it that year? A Well I am wrong, I didn't have that farm in 1886, I was here then.
- Q When did you come here Judge? A In 1879.
- Q Well who cultivated this farm in 1886? A I cultivated it myself.
- Q Did you have any tenants? A Well my sons.
- Q Did you have any other help? A No sir, I think not.
- Q Are you positive of that? A Yes.
- Q What year were you elected State Senator first? A Well I was elected in 1869.
- Q What year were you elected State Treasurer first? A I was first elected in 1862.
- Q When were you next elected? A 1864.
- Q For terms of two years? A Yes sir.
- Q I believe you said you don't remember what year Riley McNair went on your farm first? A No sir, I would not be positive but I am inclined to think it was late in the fall of 1864.
- Q And you say he stayed there some two or three years? A Yes sir.
- Q That is your best independent recollection now? A Yes sir, stayed there until the spring of 1866.
- Q You think he went there in the fall of 1864? A I am inclined to think that was the time he went there.

- Q Now then you know it was because of the Treaty that you advised him to go to the Indian Territory? A Yes sir.
- Q It was after you had had some conversation with Governor Crawford relative to it? A Yes sir, and General Blunt.
- Q Did you then know how long he had under the Treaty to return? A I suppose I did but I don't recollect now. Six months was my recollection he had from the time of the passage.
- Q That has been refreshed by conversation you have had relative to it within the last year or two? A No sir, I remember very well that I so stated to them at the time, that they had to be there within six months.
- Q You didn't recollect that in making your statement before, did you, in 1905? A I don't know, probably the question wasn't asked me. It was some specified time and my recollection is that it was six months.
- Q Did you ever know a man by the name of Purtle, a colored man? A I can't call him to mind now.
- Q You didn't know then one of Riley McNair's daughters that married a Purtle? A No sir, I have no recollection of it. I don't remember but very few colored men, except those that lived on my place.

BY MR. PATTEN:

- Q Judge, do you, coming back just a little, do you remember whether or not, if you knew anything about this Treaty, or about their negotiations for a Treaty between the Cherokees and the United States before it was passed. Did you learn anything about the Treaty pending before it was passed? A Yes sir, I knew it was pending.
- Q And that it hadn't been passed yet? A Yes sir, but General Blunt told me it would pass.
- Q Is that the reason that you advised them to go that spring that you say you came down from Topeka? A Yes sir, that was the whole reason.
- Q Because you were advised that it was reasonably certain it would pass? A Yes sir.
- Q Has Judge Keys ever been to see you, he is an old gentleman that lives in the Cherokee Nation? A Yes sir, he has been here three times.
- Q Did he talk the case over with you? A Yes sir.
- Q On each occasion that he was here? A The last occasion, I don't think we did that he was here.
- Q Mr. Davenport been here? A Mr. Davenport and another gentleman came along.
- Q Bulger? A I understand he was a partner with Mr. Starr there.
- Q Bulger, was that his name? A That is it.
- Q The first two times that Keys was here, he talked to you about the case, did he? A Yes sir, we talked together.
- Q Have a long conversation with him did you? A A long conversation.

Mr. Hastings: Objected to as being entirely irrelevant.

On Behalf of the Commissioner: The objection will be noted.

ON BEHALF OF THE COMMISSIONER:

- Q Judge do you remember the name of the father of this Moses Riley? A Well now we called him Riley all together, and I don't think that I ever heard him called anything else but just Riley.
- Q Did you know his mother? A Yes sir, I have seen her.
- Q Do you remember her name? A I would not be positive but Riley's mother,----

- Q Moses Mother? A Well it just seems to me that it was Hager but I may be mistaken about that. There was a Hager, some of them was called Hager and it just seems to me like it was Riley's wife.
- Q Did you know a man called Jim Riley? A Yes,--well I will take part of that back, I knew Jim, we called him Jim but I don't know him by any other name. He didn't live on my place and work for me but one fall and a better hand I never had.
- Q Was he connected with that same Riley family? A That I cannot tell.
- Q Do you remember what winter he worked on your place? A I would not be positive but it was either the winter of 1864 and 1865 or the winter of 1865 and 1866 that he worked for me.
- Q The winter he worked on your farm did he also live on your place? A No sir, he didn't live on my place. He lived on Mr. Simons' farm
- c I think. He lived down east of me.
- Q How does Mose Riley, who is an applicant in this case, have you seen him in the last few years? A Yes sir.
- Q Did you recognize him as being the young fellow you knew along about 1866? A I would not know him. He was a boy when he left here and he was a man with considerable gray hairs when I saw him a little over a year ago.
- Q Well after talking with him did you recognize him as being that same young man? A I cannot say that I would have recognized him if he hadn't told me who he was and called up a great many things that he called my attention to.
- Q He satisfied you that he was the same young man? A Yes sir.

BY MR. HASTINGS:

- Q Where did this man Riley live the year before he moved to your place? A He lived on,-----
- Q On whose place? A Well it was a ,---the woman is living there yet I guess,---it was right on the hill right across,---we called it the Ann Martin place.
- Q Does the people own it yet that lived there then? A Riley lived there then.
- Q Who owns it now? A Ann Martin.
- Q The same people that owned it then? A I think they owned it then. They were from the Nation I think too.
- Q They live there yet you think? A Well she does. Her husband, Mr. Martin and she separated.

W I T N E S S E X C U S E D .

Geo. H. Lessley, being first duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

Geo. H. Lessley

Subscribed and sworn to before me this 10th day of November, 1906.

A. A. Rasmus
Notary Public.

SP

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Moses Riley et al., as Cherokee Freedmen, consolidating the
applications of:

Moses Riley et al.	Cherokee Freedmen	D	258
Andrew Riley et al.,	Cherokee Freedmen	D	260
Jesse Riley et al.,	Cherokee Freedmen	D	261
Frank Riley et al.,	Cherokee Freedmen	D	262
Jerry Riley et al.,	Cherokee Freedmen	D	263
Fannie Scott et al.,	Cherokee Freedmen	D	266
Delilah Johnson et al.	Cherokee Freedmen	D	267
Lottie Johnson et al.	Cherokee Freedmen	D	268
Jane Riley	Cherokee Freedmen	D	600
Daniel Thompson	Cherokee Freedmen	D	606
Elick Ward et al.,	Cherokee Freedmen	D	623
Sandy Thompson	Cherokee Freedmen	D	693
Ruth Riley et al.	Cherokee Freedmen	D	579
Hannah Riley	Cherokee Freedmen	D	569
Charles Landrum	Cherokee Freedmen	D	601
Bettie McIntosh	Cherokee Freedmen	D	903
William Riley	Cherokee Freedmen	D	603
Carrie Gibson,	Cherokee Freedmen	D	704
Cora J. Wagoner et al.	Cherokee Freedmen	D	570
Arthur Riley	Cherokee Freedmen	D	571
Elizabeth Melton et al.	Cherokee Freedmen	D	441
Julius Curl	Cherokee Freedmen	D	269
Riley Curl, et al.	Cherokee Freedmen	D	270
Ophelia Thompson et al.	Cherokee Freedmen	D	271
Mollie Townsend et al.	Cherokee Freedmen	D	651
Ema Purtle	Cherokee Freedmen	R	556
Wilen Bean	Cherokee Freedmen	R	674
Walter Vann et al.	Cherokee Freedman	R	675
Frank Vann et al.	Cherokee Freedmen	R	302

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications
for enrollment as Cherokee Freedmen were made to the Commission

to the Five Civilized Tribes by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and minor child Nathaniel Riley; by Jesse Riley for himself and minor children, Joseph, Ollie, Viola, Mabel, Elnora, Ideller and Luther D. Riley; by Frank Riley for himself and minor children, Lottie, Fannie, James, Ralph, Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth on November 30, 1901, of Earl E. Riley, child of the applicant, Frank Riley, and on June 28, 1902 there was filed with the Commission an affidavit showing the birth on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Elick Ward for himself, his wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse, and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth, on August 24, 1901, of Oval Wagoner, child of the applicant Cora J. Wagoner; by Arthur Riley for himself; by Elizabeth Melton for herself and minor child, Elnora Melton; by Julius Curls for himself; by Riley Curls for himself and minor children, Willie, Edward, James, George, Stephenia and Clarence Curls; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 13, 1902, of Beatrice Curls, child of the applicant Riley Curls; by Ophelia Thompson for herself and minor children, Alpha, Libbie, Hirschel, Harvey, and Clyde Thompson; by Mollie Townsend for herself and minor children, Rosa, George, Arthur and Ethel Townsend; by Emma Purtle for herself; by Ellen Bean for herself; by Walter Vann for himself and minor child, Waneta Vann; by Jesse Vann for himself and minor children, Frank, Riley, and Lovat Vann. As the application of Jesse Vann has been differently classified, his right to enrollment will not be considered in this decision.

The records further show that on October 13, 1905,

the Commissioner to the Five Civilized Tribes rendered his decision herein denying, among others, all of the above mentioned applicants, except Emma Purtle, Ellen Bean, and Walter, Waneta, Frank, Riley and Lovat Vann, the right to enrollment as Cherokee freedmen, which decision was duly forwarded to the Department, and thereafter, on July 9, 1906 (I.T.D. 17884-1906), said case was remanded to the Commissioner for rehearing and readjudication; that on July 23, 1904, the Commission to the Five Civilized Tribes rendered its decision rejecting the applications for the enrollment of Emma Purtle, Ellen Bean, and Walter and Waneta Vann as Cherokee freedmen; that said decision was, on November 12, 1904, (I.T.D. 8594-1904), duly affirmed by the Department. Thereafter, on September 18, 1906, the Department rescinded its said decision of November 12, 1904, and remanded said case to the Commissioner to be consolidated with the Cherokee freedmen cases of Moses Riley et al., and to be readjudicated with the same; and that, on July 10, 1903, the Commission to the Five Civilized Tribes rendered its decision rejecting, among others, the application for the enrollment of Frank, Riley, and Lovat Vann, as Cherokee freedmen; that said decision was, on May 11, 1904 (I.T.D. 2412-1904), duly affirmed by the Department, and that thereafter, on October 12, 1906 (I.T.D. 12379-1906), the Department directed that the rights of these children to enrollment as Cherokee freedmen be adjudicated in connection with the case of their alleged mother, the said Emma Purtle.

Further proceedings were had in this consolidated case at Garnett, Kansas, October 26, 1906, and at Muskogee, Indian Territory, December 7, 8, 10, 11, and 12, 1906. December 12, 1906, the Commissioner ordered that the cases of Daniel Thompson, D 606, Ellick Ward et al. D 623, and Sandy Thompson, D 693, be separated from the consolidated case of Moses Riley et al. The applicants in these three cases have several times been notified to appear and introduce testimony showing their right to enrollment as Cherokee freedmen, but have failed to do so. There is filed herewith and made a part of the record herein, a letter from Messrs. Starr & Patten, attorneys representing a majority of the applicants included in this case, dated January 17, 1907, referring to the three cases mentioned and stating that they "are unable to do anything with the case from the applicants' standpoint" and that "we will have no testimony to introduce in the case." The Commissioner's order of December 12, 1906, separating these three cases from the consolidated case of Moses Riley et al., is therefore hereby set aside.

Since this case was remanded to the Commissioner there have been filed herewith and made a part of the record herein, the following documents:

A certified copy of a marriage license issued on June 24, 1893, by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing the marriage of Thos. E. Allen and Millie McNair;

A certified copy of the "indictment, trial, and judgment of the Court and Jury" in the case of Riley Curle et al. in the United States District Court for the Western District of Arkansas, Fort Smith Division;

A certificate by the Clerk of Anderson County, Kansas, relative to whether the names of certain of the applicants herein appear upon the assessment records of Monroe Township, Anderson County, Kansas, during the years 1867, 1868 and 1869;

Six permits issued by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing Jerry McNair, or Riley, to employ certain persons;

An application made by Lewis Whitmire to the Chambers Court of the Cherokee Nation, on June 26, 1878, for Cherokee citizenship;

A certified copy of an Act of the Cherokee National Council approved October 12, 1866, relative to the repeal of certain confiscation acts permitting Southern Cherokees to repossess themselves of their homes and effects December 1, 1866.

THE EVIDENCE IN THIS CASE SHOWS: That Samuel Riley, or McNair, and Maria Riley, or McNair, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Emma Purtle, Fannie Scott, Delilah Johnson, Lottie Johnson, and Millie Riley, or McNair, deceased; that the said Riley, Maria, and Millie McNair, all deceased, and the applicants, Moses, Andrew, Jesse and Jerry Riley, Emma Purtle, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Eliok and Amanda Ward, and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the war of the rebellion, and that they were taken from the Cherokee Nation during said rebellion.

Since the case was remanded to the Commissioner for further proceedings no additional evidence has been submitted showing whether or not Jane Riley returned to the Cherokee Nation within the time limited by the Treaty of 1866, or to show that she possesses any right whatever to Cherokee freedman citizenship.

The applicant Ruth Riley, was born since 1866, is a daughter of Henry Thornton, deceased, and Katie Thornton, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, but after ample opportunity having been afforded, the applicant has wholly failed to establish by satisfactory evidence that her said parents complied with the provisions of the Treaty of 1866, or to show that she possesses any right whatever to enrollment as a Cherokee freedman.

It is not shown, nor does it appear that it is claimed

that Hannah Riley possesses any right whatever to Cherokee freedman citizenship.

The evidence in the case shows that Harrison Johnson, deceased, father of the minor applicants, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, and Harrison Johnson, and Jane Riley, Daniel Thompson, Elick and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, and Columbus Rogers, deceased, did not return to the Cherokee Nation, after the war of the rebellion, and establish an actual personal bona fide residence therein, as provided by Section three of the Act of Congress approved April 26, 1906 (34 Stat. 137).

The applicants Lillie, Nathaniel, Joseph, Ollie, Viola, Mabel, Elnora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E. (In C. F. D. 624 the Commission to the Five Civilized Tribes found that Mary Riley, mother of the seven last named children, was not entitled to enrollment as a Cherokee freedman, and its finding was affirmed by the Department October 31, 1904-I.T.D. 8138-1904-), Clarence, Samuel, James B., Amanda, Mariah, Maggie, Calvin, Bertha, Ada, and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Rebecca, Luford, Wilbert, and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. and Oval Wagoner, Arthur Riley, Elizabeth and Elnora Melton, Julius, Riley, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curis, Ophelia, Alpha, Libbie, Hirschel, Harvey, and Clyde Thompson, were born since the commencement of the war of the rebellion and possess no right to Cherokee freedman citizenship other than as descendants of the said Samuel and Maria Riley, deceased, and Moses, Andrew, Jesse and Jerry Riley, Fannie Scott, Lottie Johnson, Millie Riley, deceased, Jane Riley, Daniel Thompson, Elick and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, Harrison Johnson, deceased, Columbus Rogers, deceased, Ruth Riley and Hannah Riley.

The Commissioner to the Five Civilized Tribes on February 23, 1907, rendered his decision rejecting the application of Jesse Vann, father of the applicants Mollie Townsend, Ellen Bean, Walter Vann and Frank, Riley, and Lovat Vann, for enrollment as a Cherokee freedman. It is therefore considered that the applicants Mollie, Rosa, George, Arthur and Ethel Townsend, Ellen Bean, Walter, Waneta, Frank, Riley, and Lovat Vann, who were born since 1866, possess no right to enrollment as Cherokee freedman other than as descendants of their mother and grandmother, the said Emma Purtle.

The only question remaining to be decided in this case is:

Did Samuel Riley or McHair and his wife Maria Riley, and their children herein named, who were born at that time, return to the Cherokee Nation after the close of the war of the rebellion, within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship?

Since this consolidated case was remanded to the

Commissioner there have been introduced on both sides of the case, forty-seven witnesses, whose testimony is exceedingly contradictory.

The applicants claim that Samuel Riley came to the Cherokee Nation in the spring of 1866; that he raised a crop of corn on the place of Jack and Susannah McNair, his former owners; that he remained in the Cherokee Nation during the summer of 1866; then returned to the state of Kansas, and in the fall of 1866, brought his family, including the said Moses, Andrew, Jesse, Frank, and Jerry Riley, Fannie Scott, Delilah Johnson, Lottie Johnson, and Emma Purtle, directly to, and settled on, the Jack and Susannah McNair place, where they continued to reside during the years 1867 and 1868.

The evidence shows that Millie Riley, deceased, a daughter of said Samuel and Maria Riley, and mother of the applicants Julius, and Riley Curls and Ophelia Thompson, and grandmother of the minor applicants, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curls, and Alpha, Libbie, Hirschel, Harvey and Clyde Thompson, returned to the Cherokee Nation at a later date than the other members of her said family.

The testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the Jack and Susannah McNair place by any member or members of this Riley or McNair family, in 1866, and that none of said family were on that place, after the war of the rebellion, earlier than, possibly, May, 1867.

The testimony introduced on behalf of the applicants to the effect that when the Riley family left the state of Kansas they went direct to the said Jack and Susannah McNair place in the Cherokee Nation, is uncontradicted. William Spriggs, who testified in the case at Garnett, Kansas, October 26, 1906, on behalf of the applicants, and on whose testimony it appears the applicants so much rely, states that this family left his place for the Cherokee Nation in the fall of 1866, but in an affidavit executed by him August 25, 1905, before a Notary Public, which affidavit is copied into and made a part of the record in this case, he states, in reply to the question-"How did he (meaning Samuel Riley, or McNair) come to leave your farm?" that "Congress had passed an Act giving the freedmen an interest with the Indians in the lands in the Cherokee Nation, provided they were there by a time specified in the Act, and I informed him of the passage of the Act and advised him to return in time to obtain that interest, and he left for that purpose."

There is in the possession of this office a Roll of the Cherokee People, made from a census taken in 1867, which roll was made under authority of Section twelve, Treaty of 1866, for the purpose of ascertaining the number of Cherokee citizens in order that the representation of the Cherokee Nation in the General Council provided for by said treaty might be properly apportioned.

Section 12 of said Treaty reads in part as follows:

"After the ratification of this Treaty, and as soon as may be deemed practicable by the Secretary

of the Interior, and prior to the first session of said council, a census or enumeration of each tribe lawfully resident in said (Indian) Territory shall be taken under the direction of the Commissioner of Indian Affairs, who, for that purpose, is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior and paid by the United States."

Under authority of this provision the Commissioner of Indian Affairs appointed one W. Tompkins to take the census of the Cherokee Tribe. In taking this census Mr. Tompkins followed the political divisions of the Cherokee Nation. The roll made from this census is contained in four substantial well preserved volumes, the names of the Cherokee citizens, at that time, appearing in their respective districts, said districts being divided in four volumes, as follows, to-wit:

Going Snake and Delaware Districts	Volume 1
Tahlequah and Saline Districts	Volume 2,
Canadian and Delaware Districts	Volume 3,
Flint, Sequoyah and Koo-wees-koo-wee Districts,	Volume 4.

The citizens of the Cherokee Nation were classified by the census taker under four heads, namely: Indians, Whites, Halfbreeds and Colored. In his recapitulation of the census taken, Mr. Tompkins found there were 13566 Cherokee citizens residing in their nation, divided under the foregoing heads, as follows: Indians, 9588, Whites, 47, Halfbreeds, 2650, and Colored, 1281. The certificate of the census taker is found on the last page of Volume 4, and reads as follows, to-wit:

"I certify that the foregoing is a true and correct census or enumeration of the Cherokee Indians residing in their Nation:- taken in obedience to your appointment per telegram dated June 10, 1867, and instructions dated July 1, 1867, and in accordance with the provisions of Article 12th, Section 1st of a Treaty made with the Cherokee Nation dated July 19, 1866.

W. Tompkins,

Special U. S. Commissioner to take census of Cherokee Indians."

This roll is considered reliable for the reason that the census from which it was made was taken by disinterested parties and for a purpose that makes it highly improbable that any reason existed for placing on said roll the name of any person not entitled or excluding therefrom the name of any person entitled to citizenship in the Cherokee Nation. The question as to whether

or not those claiming under Article 9 of the Treaty of 1866 had complied with the provisions thereof was, at that time, easily determined, especially so as to the date of return, inasmuch as this census was taken only a few months after the time limited by said Article 9 of the Treaty for the return of Cherokee freedmen, had expired.

An examination of the roll fails to show the names of any of the above named applicants, or of any of the aforementioned deceased ancestors, enumerated thereon.

It is therefore considered, in view of the record in this case and of the fact that no one of the applicants herein or any of the ancestors through whom they claim the right to Cherokee freedman citizenship is identified upon said roll of 1867, that they, or either of them did not return to the Cherokee Nation within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship.

Since the last proceedings had in this case, this office has secured from the Executive Secretary of the Cherokee Nation a list of the "Names of persons who have appeared, or have been duly Summonsed before the Commission on Citizenship of the Cherokee Nation, during the years 1878-79 & 80, and who have failed to establish their rights to Cherokee Citizenship;" which list was certified to by the Assistant Executive Secretary of the Cherokee Nation on the "18th day of April--" (record is worn and year not shown). Among others appearing in the list is the following:

No. of Case.	Names of Claimants,	1878-9 Decisions rendered.
Col. 81	Riley McNair	By default.

The failure of this colored person to prosecute his claim for Cherokee citizenship before the Cherokee Commission on Citizenship when his case was before that tribunal, which was at a time when the question as to the date of his return to the Cherokee Nation after the war of the rebellion could have been easily determined, is considered strong evidence of the fact that the conclusion herein reached that said applicants did not return to the Cherokee Nation prior to February 11, 1867, is correct.

The evidence herein further shows that the applicants, Ethel Townsend and Clarence Curle died prior to September 1, 1902, and affidavits to that effect are filed herewith and made a part of the record herein.

Section 25 of the Act of Congress approved July 1, 1902 (32 Stat. 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS THEREFORE ORDERED AND ADJUDGED: That, under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat., 495), Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Jane Riley, Daniel Thompson, Elick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward, Maine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend Emma Purtle, Ellen Bean, Walter Vann, Waneta Vann, Frank Vann, Riley Vann and Lovat Vann, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied; and it is further ordered that, under the provisions of Section 25 of the Act of Congress above quoted the applications for the enrollment as Cherokee freedmen of Clarence Curls and Ethel Townsend, should be, and the same are, hereby dismissed.



Commissioner

Dated at Muskogee, Indian Territory,
this FEB 27 1907

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

CHIEF CLERK,

CHEROKEE LAND OFFICE.

DEAR SIR:

The records of this office show

Miss Ray

listed on Cherokee card No.

31238

to be prima facie entitled to enrollment as *Indian* of the Cherokee Nation for the following reason,

viz:

Amato, J. C. is the father of the said Miss Ray, born in 1847.

Respectfully,

Commissioner.

Dated

March 15 1907

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Moses Riley,
Chelsea, I.T.
Cherokee F-D-258
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee
F D 258

Muskogee, Indian Territory, January 3, 1905.

G. P. Fogle,

Attorney for Moses Riley et al.,

Vinita, Indian Territory.

Dear Sir:

On November 27, 1905, this office acknowledged receipt of a copy of argument by you in the matter of the application for the enrollment of Moses Riley et al., stating that no letter of transmittal was received with the same and requested to be advised what disposition you desired made of the same. No response has been received to that letter and you are advised that the copy of argument referred to is being held in this office, and it is again requested that you advise what disposition to be made of the same.

Respectfully,

GHL

Commissioner.

Cherokee Freedmen

D-293, et al.

Muskogee, Indian Territory, October 13, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting the applications for enrollment as Cherokee freedmen and citizens by intermarriage of the Cherokee Nation in the consolidated applications of Katie Ridge, et al., Cherokee freedmen D-293, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the action of the Secretary as soon as this office is informed of the same.

Respectfully,

(Signed) Tame Pixby

Commissioner.

Muskogee, Indian Territory, October 13, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of September 13, 1905, (I.T.D. 2218, 7024-1905), there is herewith transmitted the record of proceedings had in the matter of the consolidated applications for enrollment as Cherokee Freedmen and as citizens by intermarriage of the Cherokee Nation, of Katie Ridge, et al., Cherokee Freedmen D 295, et al., including the decision of the Commissioner to the Five Civilized Tribes dated October 13, 1905, rejecting the applications of Laura Ridge, Ary Lynch, Dennis Hicks Sr., and Susie Hicks, as citizens by intermarriage of the Cherokee Nation, and of Katie Ridge, Cornelius Ridge, Pearl Ridge, Jesse Ridge and Myrtle Ridge, Phoebe (Milton) Johnson, Joseph Milton, Percy Milton, Herbert Milton, Serena Milton and Pearl Milton, Henry C. Ridge, Ida Jones, Lee Martin, Eddie Martin and Stella Martin, Cornelias Jones, Eldora Vann, Maud Riley, Jesse Barnett and John C. Riley, Rosa Vann and Josephine Vann, William

Secretar--2.

Townsend, Mollie Townsend, Rosa Townsend, George Townsend
and Arthur Townsend, Bettie Hicks, Leroy Hicks, Dennis Hicks
Jr., Delana Hicks, Mabel Hicks and Elmer Hicks, Joshua Holt,
Jane Holt, Laura Beeson, Ella Beeson, Jessie Holt, Willard
Holt, Clifford Holt and Maucelia (Marcelia) Holt, Sallie Miller,
Mary Johnson, Ruth Vann, Martha Chinnett and Lillie Chinnett,
Frank Johnson and Luella Johnson, Eliza Hawkins and Tyndle E.
Hawkins, Joseph Hicks, Otto A. Hicks, Katie Hicks, James A.
Hicks, Frances Johnson, Nettie Johnson, Katie Johnson, Clarence
Johnson and Wilda Johnson, Anna Butler, Esther Owen, Howard
Bushyhead, Katie Davis, Moses Riley, Lillie Riley, Andrew Riley,
Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola
Riley, Mabel Riley, Elvora Riley, Ideller Riley, Luther D. Riley,
Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph
Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence
Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley,
Mariah Riley, Maggie Riley, Calvin Riley, Perth Riley,
Ada Riley and Leona Riley, Fannie Scott, Charles Wesley
Miller, Bessie Scott and Jimmie Scott, Delilah Johnson, Allie
Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola
Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie

Secretary--3.

Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson and Arch Johnson, Jane Riley, Daniel Thompson, Elick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward and Haine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley and Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagener and Oval Wagener, Arthur Riley, Elizabeth Melton and Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls and Featrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, and Clyde Thompson, for enrollment as Cherokee Freedmen, and dismissing the applications for enrollment as Cherokee Freedmen of Ethel Townsend and Clarence Curls.

In connection with the finding of this office relative to the rights of Cornelius Ridge to enrollment as a Cherokee freedman, case No. D 536, the same being included in the consolidated case of Katie Ridge, et al., herewith transmitted, the attention of the Department is invited to the case of Enoch Daniels, et al., Cherokee Freedman No. 1429, formerly Cherokee Freedman D 219, wherein, in its de-

Secretary--4.

cision rendered on July 5, 1904, the Commission to the Five Civilized Tribes found, inter alia, that one Laura Daniels, nee Ridge, daughter of the said Cornelius Ridge, was entitled to enrollment as a Cherokee Freedman, said finding being concurred in by the Commissioner of Indian Affairs on September 24, 1904 (Land 57605-04), and affirmed by the Department on October 22, 1904 (I.T.D. 7724-04), and in conformity thereto said applicant's name was placed upon a schedule of Cherokee Freedmen forwarded to the Department on June 26, 1905, and she is now included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior on July 27, 1905, opposite No. 3907.

The right of this applicant, Laura Daniels, nee Ridge, who was born since 1868, to enrollment as a Cherokee freedman was based upon the theory that her father the said Cornelius Ridge had "heretofore been enrolled by this Commission as a Cherokee freedman", which, as the consolidated case herewith transmitted indicates, was error.

It is, therefore, respectfully recommended that, if the Department affirms the decision of this office as to the rights of the said Cornelius Ridge to Cherokee freedman

Secretary--5.

citizenship, the case of Enoch Daniels, et al., Cherokee Freedman 1429, formerly Cherokee Freedman D 219, be reopened, and the decision therein, in so far as it grants to the said Laura Daniels, nee Ridge, the right to Cherokee Freedman citizenship, be reversed.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner

Incl. F 16.

LMB

Cherokee Freedmen

D-295, et al.

COPY.

Muskogee, Indian Territory, October 13, 1905.

Edgar Smith,

Attorney for Katie Ridge, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting the applications for enrollment as Cherokee freedmen and as citizens by intermarriage of the Cherokee Nation in the consolidated applications of Katie Ridge, et al., Cherokee freedmen D-295, et al. You have heretofore been furnished a copy of the record of proceedings had in this case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the action of the Secretary as soon as this office is informed of the same.

Respectfully,

SIGNED:

James B. Smith

Commissioner.

Incl. S-222

Register

Cherokee Freedmen

D-295, et al.

COPY.

Muskogee, Indian Territory, October 13, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting the applications for enrollment as Cherokee freedmen and as citizens by intermarriage of the Cherokee Nation in the consolidated applications of Katie Ridge, et al., Cherokee freedmen D-295, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the action of the Secretary as soon as this office is informed of the same.

Respectfully,

(SIGNED)

Incl. S-223

Commissioner.

Cherokee Freedmen

COPY.

D-258.

Muskogee, Indian Territory, October 13, 1905.

Moses Riley,

Winer, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 30, 1905, rejecting, among others, your application for the enrollment of yourself and minor child, Lillie Riley, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

SIGNED

John L. Dwyer

Commissioner.

Incl. 8-102
Register

Cherokee Freedmen

COPY.

D-258.

Muskogee, Indian Territory, November 10, 1905.

George P. Fogle,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt of your letter of November 1, inclosing a "Motion in Cherokee freedmen case D 258, Moses Riley, et al., that said applicants be enrolled by the Secretary of the Interior upon the evidence on file herein".

In reply you are advised that the record in the matter of the application for the enrollment of, among others, Moses Riley, et al., including the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, reflecting said application, was, on that date, forwarded to the Secretary of the Interior for his review and decision. The paper transmitted with your letter has this day been forwarded to the Department for proper disposition.

It is stated in an affidavit signed by you, attached to this motion, that a copy of the same was forwarded by registered mail to James S. Davenport and L. B. Bell, Attorneys for the Cherokee Nation, at Muskogee, Indian Territory, and that a copy of the registry receipt was attached thereto. You are advised

that the registry receipt referred to was not inclosed with your letter.

It appears from your letter that you represent the following applicants for enrollment as citizens of the Cherokee Nation:

Moses Riley, et al.,	Cherokee Freedmen	D-258
Andrew Riley, et al.,	"	D-260
Jesse Riley, et al.,	"	D-261
Frank Riley, et al.,	"	D-262
Jerry Riley, et al.,	"	D-263
Fannie Scott, et al.,	"	D-266
Delilah Johnson, et al.,	"	D-267
Lottie Johnson, et al.,	"	D-268
William Riley,	"	D-603
Carrie Gibson,	"	D-704
Cora J. Wagoner, et al.,	"	D-570
Arthur Riley,	"	D-571
Elizabeth Melton, et al.,	"	D-441
Julius Curls,	"	D-269
Riley Curls, et al.,	"	D-270
Ophelia Thompson, et al.,	"	D-271

and there are inclosed herewith blank forms of notices addressed to this office, of attorneys employed, which you are requested to have your clients sign and return to this office.

Respectfully,

(SIGNED)

Tame Bixby.
Commissioner.

Incl. S-108

Muskogee, Indian Territory, November 11, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion of G. P. Fogle, attorney for Moses Riley, et al., that the applicants embraced in the consolidated applications of, among others, Moses Riley, et al., Freedmen D-258, be enrolled "upon the testimony on file in the respective cases". It is stated in an affidavit attached to the motion signed by G. P. Fogle, that a copy of said motion was forwarded by registered mail to James S. Davenport and L. B. Bell, attorneys for the Cherokee Nation, and that the receipt of the post master was attached thereto. The registry receipt received at this office with said motion.

The record in the matter of the application for the enrollment of Moses Riley, et al., was forwarded to the Department on October 13, 1905, the cases with which it was consolidated being styled Katie Ridge, et al., Freedmen D-295.

Respectfully,

Incl. S-122

Commissioner.

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen

D-258, et al.

Muskogee, Indian Territory, November 27, 1905.

G. P. Fogle,

Attorney for Moses Riley, et al.,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt of a copy of argument by you in the matter of the application for the enrollment of Moses Riley, et al. No letter of transmittal was received with the copy, and you are requested to advise this office what disposition you desire made of the same.

Respectfully,

LS

Acting Commissioner.

--Copy--

LAND:

83807-91559-1905.
91821-91843-1905
91492-101697-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

JFA

December 22, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes dated October 13, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Katie Ridge for herself; by Cornelius Ridge for himself and wife Laura Ridge (by intermarriage) and his minor children, Pearl, Jesse, and Myrtle Ridge; by Phoebe Milton Johnson for herself and her minor children, Joseph, Percy, Herbert, Serena, and Pearl Milton; by Henry C. Ridge for himself; by Ida Jones for herself and her minor children, Lee, Eddie, Stella, and Cornelius Jones; by Charles J. Lynch for his wife, Amy Lynch (by intermarriage) by Walter Vann for his wife, Elnera Vann; by Maud Riley for herself and her minor children, Jesse Barnett and John C. Riley; by Rosa Vann for herself and her minor child, Josephine Vann; by William Townsend for himself; by Mollie Townsend for herself and her minor children, Rosa, George, Arthur, and Ethel Townsend; by Dennis Hicks for himself (by intermarriage) and wife Bettie Hicks and his minor children, Leroy, Dennis, Jr., Delana, Mabel, and Elmer Hicks; by Joshua Holt for himself and wife,

Jane Hilt and minor step-children, Laura and Ella Beeson and minor children, Jessie, Willard, Clifford, and Mancelia (Marcella) Helt; by Sallie Miller for herself; by Mary Johnson for herself; by Ruth Chinnett and for herself and her minor children, Martha, and Little Chinnett; by Frank Johnson for himself and his minor child, Liella Johnson; by Eliza Hawkins for herself and her minor child, Tyndle B. Hawkins; by Joseph Hicks for himself and wife, Susie Hicks (by intermarriage) and minor child, Otto A. Hicks; by Katie Hicks for herself; by James A. Hicks for himself; by Frances Johnson for herself and her minor children, Nettie, Katie, Clarence, and Wilda Johnson; by Anna Butler for herself and her minor child, Esther Owen, and her adult brother, Howard Bushyhead; by Katie Davis for herself; by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and his minor child, Nathaniel Riley; by Jesse Riley for himself and his minor children, Joseph, Ollie, Viola, Mabel, Elmera, Ideller, and Luther D. Riley; by Frank Riley for himself and his minor children, Lettie, Fannie, James, Ralph, Arizona, Clarence, Inola and Earl E. Riley; by Jerry Riley for himself and his minor children, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada, and Leona Riley; by Fannie Scott for herself and her minor children, Charles Wesley Miller, and Bessie, and Jimmie Scott; by Delilah Johnson for herself and her minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson; by Lettie Johnson for herself and her minor children, Rebecca, Luferd, Wilbert, and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Elsie Ward

for himself and wife, Amanda Ward, and his minor children, Irvin, Harry, Roy, Dan, Effie, Trey, Jesse, and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself, and her minor child, Lenora Edine Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself and her minor child, Oval Wagoner; by Arthur Riley for himself; by Elisabeth Melton for herself and her minor child, Elmore Melton; by Julius Curlis for himself; by Riley Curlis for himself and his minor children, Willie, Edward, James, George, Stephenia, Clarence, and Beatrice Curlis; and by Ophelia Thompson for herself and her minor children, Alpha, Libbie, Herschel, Harvey, and Glyde Thompson.

October 13, 1906, the Commissioner decided adversely to all the applicants.

The record shows that the applicant, Katie Ridge, is the mother of the applicants, Cornelius Ridge, Phoebe Johnson, Jesse Ridge, deceased, and Mary Ridge (later Hicks, former wife of Dennis Hicks, Sr.), deceased; that they were the slaves of Cherokee citizens at the beginning of the War of the Rebellion, were taken out of the Cherokee Nation, during the War, and did not return thereto on or before February 11, 1867; that the applicants, Laura Ridge, and Amy Lynch neither claim nor possess any rights to enrollment other than those obtained by marriage to the applicants, Cornelius Ridge and Jesse Ridge, deceased; that the applicants, Dennis Hicks, Sr., and Susie Hicks neither claim nor possess

any rights to enrollment other than by virtue of their marriage to Bettie and Joseph Hicks; that the applicants, Bettie Hicks, Joshua Holt and Gallie Miller (children of one Esther Holt), and Andersen Johnson, deceased, Buck Bushyhead, deceased, and Bettie Downing, deceased, were the slaves of Cherokee citizens at the beginning of the War of the Rebellion; were taken out of the Cherokee Nation during the War, and did not return on or before February 11, 1867; that one Riley McNair and one Maria McNair, both deceased were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah and Lettie Johnson, and of Willie McNair, deceased; that the said Riley, Maria, and Willie McNair, all deceased, and Moses, Andrew, Jesse, and Jerry Riley, Fannie Scott and Lettie Johnson, and Jane Riley, Daniel Thompson, Eliek and Amanda Ward and Sandy Thompson and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the beginning of the War of the Rebellion, were taken out of the Cherokee Nation during the war and did not return thereto on or before February 11, 1867; that all the other applicants were born since 1866, are descendants of the foregoing and possess no rights to enrollment except as such descendants, or have failed after ample opportunity afforded to establish such a right. None is identified on the 1880 authenticated Cherokee roll, or the Cherokee census roll of 1896 nor can an ancestor be so identified.

There is also enclosed a letter from the Commissioner to the Five Civilized Tribes transmitting a motion in behalf

-5-

of the applicants and three communications from G. F. Fogle
emancipating motions in their behalf which have been carefully
considered.

In view of the record the approval of the Commissioner's
decision adverse to all the applicants is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner,

MMK
8

Cherokee Freedmen
D-258, et al.

Muskogee, Indian Territory, January 13, 1906.

G. P. Fogle,

Vinita, Indian Territory.

Dear Sir:

This office is in receipt of your letter of January 5, in reply to this office communications of November 27, and January 3, relative to the copy of argument filed by you in the matter of the application for the enrollment as Cherokee freedmen of Moses Riley, et al. You state that the copy was forwarded to this office for filing with its records, and request if the same is not required, that it be returned to you.

In reply you are advised that the rules of this office do require that argument in citizenship cases be filed in duplicate, in order that one copy of the same may be retained in the files of this office, but as no letter of transmittal was received with the copy referred to it was not known whether you forwarded the original of the same direct to the Department. The copy has been filed with the records of this office.

Respectfully,

LS

Commissioner.

Cherokee Freedman
D 258.

Muskogee, Indian Territory, August 6, 1906.

Moses Riley,

Wimer, Indian Territory.

Dear Sir:

In connection with your Cherokee freedman case, you are advised that this office is in receipt of Departmental letter of July 9, 1906, remanding the same to this office for a rehearing. The Department directs that the consolidated case of Katie Ridge, et al, which includes your application, be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that under this division the following cases will be consolidated.

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al,
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Lottie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Elick Ward, et al,
D 693	Sandy Thompson,
D 579	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum,
D 903	Bettie McIntosh,
D 603	William Riley,
D 704	Carrie Gibson,
D 870	Cora J. Wagener, et al,

D 571
D 441
D 269
D 270
D 271

Arthur Riley,
Elizabeth Melton, et al.,
Julius Carls,
Riley Carls, et al.,
Phelia Thompson, et al.

Your attorneys, Edgar Smith, Muskogee, Indian Territory, and G. P. Pegle, Vinita, Indian Territory, have this day been advised of the Department's action, and of the consolidation of the above cases, and also requested to advise this office at the earliest practicable date the names and addresses of all the witnesses it is proposed to introduce on behalf of applicants in this case. When this information is furnished, the Attorney for the Cherokee Nation will be advised thereof, and a date will be set for a hearing in the case, of which action all parties at interest will be advised.

Respectfully,

M.A.

Register.

Commissioner.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman consolidated cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. In accordance with the Department's direction, the following cases will be consolidated:

D 256	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al,
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Nelliah Johnson, et al,
D 268	Lottie Johnson, et al,
D 268	Lottie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Elick Ward, et al,
D 693	Sandy Thompson,
D 679	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum,
D 903	Bettie McIntosh,
D 603	William Riley,
D 704	Carrie Gibson,
D 670	Cora J. Wagoner, et al,
D 571	Arthur Riley,
D 441	Elizabeth Pelton, et al,
D 269	Julius Curle,
D 270	Riley Curle, et al,
D 271	Ophelia Thompson, et al.

The applicants in these cases, and their attorneys have this day been advised of the Department's action and of the consolidation of these cases, and notified that before a date would be fixed for a hearing in the cases, they will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, you will be advised thereof, and a date will be set for a hearing in the case, of which action all parties at interest will be advised.

For your information there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

Acting Commissioner.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

Edgar Smith,

Attorney for Katie Ridge, et al,

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman enrollment cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. The Department directs that this consolidated case be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that in accordance with this division, the following cases will be consolidated.

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al
D 263	Jerry Riley, et al,
D 266	Pannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Bettie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Klick Ward, et al,
D 693	Sandy Thompson
D 579	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum
D 903	Bettie McIntosh,
D 603	William Riley,

-2-

D 704	Carrie Gibson,
D 570	Cora J. Wagoner, et al,
D 571	Arthur Riley,
D 441	Elizabeth Walton, et al,
D 259	Julius Curle,
D 270	Riley Curle, et al,
D 271	Ophelia Thompson, et al,

The records of this office show that you and G. P. Fogle, Vinita, Indian Territory, are the attorneys of record for all of the above named applicants except Charles Landrum, D 601, whose agent is I. P. Bledsoe, Chouteau, Indian Territory. You are advised that before a date will be set for a hearing in this case, the applicants will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, the Attorney for the Cherokee Nation will be notified thereof, and a date set for a hearing in the case, of which all parties at interest will be advised.

Messrs. Fogle and Bledsoe, have this day been advised of the Department's action and of what will be required of the applicants, and before submitting the list of the names and addresses of the witnesses, it is suggested that you communicate with them and submit at one time a list of all of the witnesses expected to be introduced.

For your information there is enclosed herewith copy of Departmental letter referred to.

Respectfully,

M.A. Incl. 7-2.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

G. P. Fogle,

Attorney for Katie Ridge, et al,
Vinita, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman enrollment cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. The Department directs that this consolidated case be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that in accordance with this division, the following cases will be consolidated.

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al,
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Lettie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Elick Ward, et al,
D 693	Sandy Thompson,
D 579	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum,
D 903	Bettie McIntosh,
D 603	William Riley,

D 704	Carrie Gibson,
D 870	Gora J. Wagoner, et al,
D 871	Arthur Riley,
D 441	Elizabeth Melton, et al,
D 269	Julius Curle,
D 270	Riley Curle, et al,
D 271	Ophelia Thompson, et al.

The records of this office show that you and Edgar Smith, Muskogee, Indian Territory, are the attorneys of record for all of the above named applicants except Charles Landrum, D 601, whose agent is I. P. Bledsoe, Cheuteau, Indian Territory. You are advised that before a date will be set for a hearing in this case, the applicants will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, the Attorney for the Cherokee Nation will be notified thereof, and a date set for a hearing in the case, of which all parties at interest will be advised.

Messrs. Smith and Bledsoe, have this day been advised of the Department's action and of what will be required of the applicants, and before submitting the list of the names and addresses of the witnesses, it is suggested that you communicate with them and submit at one time a list of all the witnesses expected to be introduced.

For your information there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

M.A.

Acting Commissioner.

Cherokee F.
D. 258 et al.

Muskogee, Indian Territory, October 13, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are advised that at the request of attorneys for applicants in the Cherokee freedman case of Moses Riley, et al., the testimony of William Spriggs will be taken in said case at Garnett, Kansas.

You are requested to advise this office, by return mail, whether or not it will be convenient to you for the testimony of said witnesses to be taken at Garnett, Kansas, on Saturday, October 20, 1906.

Respectfully,

Commissioner.

LMC

Cherokee F.
D. 258 et al.

Muskogee, Indian Territory, October 13, 1906.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

August 28, 1906, the Department referred to this office for attention, your letter of August 23, 1906, requesting that the testimony of William Spriggs be taken at Garnett, Kansas, in the Cherokee freedman case of Moses Riley, et al.

Your request will be granted, and you are requested to advise this office, by return mail, whether or not it will be convenient to you for the testimony of said witnesses to be taken at Garnett, Kansas, on Saturday, October 20, 1906.

Upon receipt of your reply you will be further advised in the matter.

Respectfully,

Commissioner.

LMC

Garnett 15th Dec^r 18th 1866
My dear Sir,

I have been
to see Simmons &
says that it will be
impossible for him to
go down. There as he is
winded and does not care
and is only a man
it is impossible
to

I am
Yours faithfully
J. H. Empson

Cherokee Freedman
D 258

Muskogee, Indian Territory, October 19, 1906

W. W. Hastings,

Attorney for Cherokee Nation.

Muskogee, Indian Territory.

Dear Sir:

You are advised that in accordance with the verbal agreement between you and Messrs. Starr & Patten, Attorneys for Moses Riley et al., the testimony of William Spriggs will be taken at Garnett, Kansas, on Friday, October 26, 1906. A representative of this office will leave Muskogee on the afternoon Missouri Pacific train and reach Garnett in the early morning of October 26th.

Respectfully,

L M B

Commissioner

Cherokee Freedman
D 258

Muskogee, Indian Territory, October 19, 1906

Starr & Patten,

Attorneys for Moses Riley et al.

Vinita , Indian Territory.

Gentlemen:

You are advised that in accordance with the verbal agreement between you and the Attorney for the Cherokee Nation, the testimony of William Spriggs will be taken at Garnett, Kansas, on Friday, October 26, 1906. A representative of this office will leave Muskogee on the afternoon Missouri Pacific train and reach Garnett in the early morning of October 26th.

Respectfully,

L M B

Commissioner

Cherokee
F D 258

Muskogee, Indian Territory, October 24, 1906.

Starr & Patten,

Attorneys for Moses Riley, et al.,
Vinita, Indian Territory.

Gentlemen:

This office is in receipt, on October 18, 1906, of your request, without date, that the testimony of Alanson Simons be taken at Garnett, Kansas, at the time the testimony of William Spriggs is taken at that place on October 26, 1906. Your request is supplemented by your motion received at this office October 23, 1906, supported by affidavits showing the physical condition of said Alanson Simons to be such that it would be impossible for him to appear before the office of the Commissioner at any time in the near future.

You are advised that inasmuch as the testimony of William Spriggs will be taken at Garnett, Kansas, on October 26, 1906, in the Cherokee Freedman enrollment case of Moses Riley, et al., and as it appears from your motion and request that the testimony of Alanson Simons can also be taken on that day, your request will be granted.

The Attorney for the Cherokee Nation has been advised of this action.

Respectfully,

Cherokee
F D 258.

Muskogee, Indian Territory, October 24, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

This office is in receipt, on October 18, 1906, of a request from Starr & Patten, Attorneys for Moses Riley, et al., that the testimony of Alanson Simons be taken at Garnett, Kansas, at the time the testimony of William Spriggs is to be taken at that place on October 26, 1906. Their request is supplemented by a motion received October 23, 1906, which is supported by affidavits showing that Alanson Simons is physically unable to appear before the Commissioner. A copy of the request, motion and affidavits has been served on you. Your protest against this request being granted has been received.

You are advised that said Attorneys have this day been notified that as the testimony of William Spriggs will be taken in the Cherokee Freedman case of Moses Riley, et al., at Garnett, Kansas, on October 26, 1906, their request to have the testimony of Alanson Simons taken on the same day will be granted.

Respectfully,

GHL

Commissioner.

(COPY)

November 1, 1906.

The Honorable,

The Commissioner to the Five Civilized Tribes,
Muskogee Indian Territory.

Dear Sir:

In the matter of the consolidated Cherokee Freedmen enrollment cases of Moses Riley et al we have the honor to submit the following as the list of witnesses on behalf of the applicants.

- 1----The applicants, in their own behalf.
- 2----Christian Shull, Sugar Grove, Ohio.
- ✓3----Hiram Spriggs, Matton, Illinois.
- ✓4----James Manspeaker, Mount Ida, Kansas.
- ✓5----John W. Campbell, Garnett, Kansas
- ✓6----Newton Spriggs, Garnett, Kansas
- 7----John S. Johnston, Cawker City, Kansas
- ✓8----Nelson Wilson, Garnett, Kansas
- ✓9----Edward Farrah, Cedarvale, Kansas
- ✓10----J. M. Johnston, Garnett, Kansas
- ✓11----Sam Gibson, Bronson, Kansas
- 12----Ben Hydorn, Garnett, Kansas
- 13----Ann Martin, Garnett, Kansas
- ✓14----J. B. Hardesty, Garnett Kansas
- 15----Malinda Gibson, Kansas City Mo.
- 16----Herschel Cloud, Topeka, Kansas.

- 17----Dill Shultz, Peru, Kansas
- ✓18----John Tyler, Garnett, Kansas
- 19----William Ray, Garnett, Kansas.
- 20----John Shultz, Peru, Kansas.
- ✓21----Thomas Shultz, Peru, Kansas.
- 22----George A. Campbell, Garnett, Kansas
- 23----J. M. Johnson, Garnett, Kansas
- 24----Amelia Petit or Percival, Ft Gibson or Muskogee I T
- 25----Lucy Lasley, Ft Gibson I T
- 26----Nannie Sheppard, Ft Gibson I T
- ✓27----Simon Lynch, Chaffe I T
- 28----Daniel Sanders, Centralia I T
- 29----Reuben Sanders, Centralia, I T
- ✓30----Nelson Moore, Ketchum I T
- ✓31----Thomas H. Moore, Ketchum I T
- ✓32----Arthur Bean, Chaffee, I T
- ✓33----Leander, Bean, Vinita, I T
- ✓34----Tobias Bean, Chaffee, I T
- ✓35----Millie Fry, Ketchum I T
- ✓36----Joseph Bean, Chaffee, I T
- 37----June Martin, Chaffee, I T
- 38----Frank Ross, Hayden, I T
- ✓39----Sam Butler, Chouteau I T
- ✓40----Joe Davis, Vinita I T
- 41----George Muskgrove, Lenapah I T
- 42----Becky Muskgrove, Lenapah, I T
- 43----Katie Vann, Lenapah I T

- ✓43----Katie Vann, Lenapah I T
- ✓44----Betsy Whitmire, Hayden, I T
- ✓45----Eliza Whitmire, Hayden, I T
- 46----Aaron Wright, Hayden, I T
- ✓27----Lewis Whitmire, Hayden, I T
- ✓28----William Madden, Hayden, I T
- 49----Harry Still, Hayden, I T
- ✓50----Stick Ross, Tahlequah, I T
- ✓51----Joe Digus Tahlequah I T
- ✓52----Moses Dykes, Garnett, Ks.

Respectfully,

Starr & Patten

Cherokee Freedman
D 258 et al.

Wuskogee, Indian Territory, November 5, 1906

Moses Riley,
Wimer, Indian Territory.

Dear Sir:

In connection with your Cherokee freedmen case, you are advised that on December 7, 1906, your case will be taken up for hearing at which time you will be permitted to introduce on your behalf the testimony of the witnesses whose names and addresses your attorneys, Starr and Patten, Vinita, Indian Territory, submitted to this office in their letter of November 1, 1906.

The Cherokee Nation will be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in your case.

Respectfully,

WMP

Commissioner.

(25 copies)

Cherokee Freedmen
D 258 et al.

Muskogee, Indian Territory, November 5, 1906

Starr & Patten,

Attorneys for Moses Riley, et al.

Vinita, Indian Territory.

Gentlemen:

Referring to your letter of November 1, 1906, submitting a list of the names and addresses of the witnesses you expect to introduce on behalf of applicants in the Cherokee freedmen cases of Moses Riley, et al., you are advised that you will be permitted to appear before the Commissioner in Muskogee, Indian Territory, on December 7, 1906, and introduce the testimony of the witnesses named by you.

The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in these cases.

Respectfully,

MMP

Commissioner.

125 05410

Cherokee Freedmen
D 258 et al.

Muskogee, Indian Territory, November 5, 1906

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed a copy of a letter from Starr and Patten, attorneys for applicants in the Cherokee freedmen cases of Moses Riley, et al., dated November 1, 1906, giving a list of the names and addresses of fifty-two witnesses they expect to introduce on behalf of applicants in the Cherokee freedmen cases of Moses Riley, et al.

You are advised that the applicants and their attorneys have this day been notified that they will be permitted to appear before the Commissioner to the Five Civilized Tribes on December 7, 1906, and introduce, on behalf of applicants, the testimony of the witnesses whose names and addresses they submitted.

The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in the case.

MMP
Incl.P-5

Respectfully,

Commissioner.

J.C. Starr.
Attorney at Law.
Vinita, Ind. Tef.

Vinita I.T. Nov.9, 1906

The Honorable,

The Commissioner to the Five Civilized Tribes
Muskogee, IT

Dear Sir:

In the Cherokee Freedmen Enrollment cases of Moses Riley and cases consolidated therewith we desire to take the testimony of the following witnesses in the case when same is tried and the names of said witnesses have not heretofore been given to you and we desire that you advise the Attorney for the Nation that we will offer the testimony of the following named persons as witnesses in the consolidated Cherokee Freedmen Enrollment cases of Moses Riley, et al., to-wit:

Robert Webber, Hayden, I. T.

Looney Glass, Hayden, I.T.

Yours truly,

(Signed) Starr & Potter.

Cherokee
P D 288 et al.

Muskogee, Indian Territory, November 10, 1906.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony taken at Garnett, Kansas, October 28, 1906, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-30.
GHL

Commissioner.

Cherokee
F B 256 et al.

Muskogee, Indian Territory, November 12, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Garnett, Kansas, October 26, 1906, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee freedmen.

Respectfully,

Incl. GL-31.
OHL

Commissioner.

(COPY)

J. C. Starr,
Attorney at Law,
Vinita, Ind. Ter.

November 12, 1906.

The Honorable,

The Commissioner to the Five Civilized Tribes,
Muskogee, I. T.

Dear Sir:

Since we now understand that in the consolidated Cherokee Freedmen Enrollment cases of Moses Riley et al are to be tried as one case separate from the Ridge and Holt cases we have advised the applicant Hannah Riley, wife of Jerry Riley, whose application is in the cases consolidated with Moses Riley et al, to get ready for trial on the date the Moses Riley et al cases are set for trial, and she has advised us that she will use some of the witnesses whose names have been submitted by us in the consolidated cases of Moses Riley et al and in addition thereto, she will have present the following witnesses whose names we herewith submit as witnesses in the consolidated cases of Moses Riley et al, to wit:

Roddy Reese, Manard, I. T.

Bass Harlin, Melvin, I. T.

Thomas Harlin, Brushy, or Chouteau, I. T.

Clark Grinnett, Fort Gibson, I. T.

Arch Carter, Ft. Gibson, I. T.

These names are furnished in order that the whole case of Moses Riley et al may be completed at this trial. Please advise us if we will be permitted to use these witnesses at the trial and if so please notify the Attorney for the Cherokee Nation to that effect.

Respectfully,

(Signed) Starr & Patton.

Cherokee freedmen
258-569.

Muskogee, Indian Territory, November 16, 1906.

Starr & Patten,
Attorneys for Moses Riley, et al.,
Vinita, Indian Territory.

Dear Sirs:-

In your letter of November 1, 1906, you submitted what was understood to be a list of the names and addresses of all the witnesses you expected to introduce on behalf of applicants in the Cherokee freedmen cases of Moses Riley, et al., and you were informed that you would be permitted to introduce the testimony of the witnesses named, at the time the case is set for hearing, December 7, 1906.

In your letter of November 9, 1906, you advise that you desire to introduce on behalf of applicants, the testimony of Robert Webber and Looney Glass, of Hayden, Indian Territory, and request that the Attorney for the Cherokee Nation be notified that you will be permitted to introduce the testimony of said witnesses.

In your letter of November 12, 1906, you state that you have advised Hannah Riley to get ready for trial on the date set for the hearing of the Moses Riley case, and that she has, in addition to the witnesses which you advised you expected to introduce in the Moses Riley case, witnesses

Starr & Patten -- 2.

Roddy Reese, Manard, Indian Territory; Bass Harlin, Indian Territory; Thomas Harlin, Choteau, Indian Territory; and Clark Grimmett and Arch Carter, of Fort Gibson, Indian Territory, whose testimony she desires to offer on her behalf. You request to be advised if you will be permitted to submit the testimony of these last named witnesses and, if so, that this office notify the Attorney for the Cherokee Nation to that effect.

In reply you are advised, as you have been heretofore, that the case of Hannah Riley had been consolidated and would be tried with the case of Moses Riley, et al., and the Riley case was set for hearing on December 7, 1906, with the understanding that the list of witnesses whose names and addresses you furnished this office November 1, 1906, a copy of which was furnished the Attorney for the Cherokee Nation, contained all of the witnesses whose testimony you expected to introduce on behalf of applicants. It is desired to hear the cases of Moses Riley, et al., at the time the cases are set for hearing, December 7, 1906, and should the Attorney for the Cherokee Nation offer no objection you will be permitted to introduce on behalf of the applicants, the testimony of the witnesses herein named. If said attorney offers a valid objection to the testimony of these witnesses being taken, you will be further advised in the premises.

Respectfully,

JH.

Commissioner.

Cherokee Freed.
D.258 - 569.

Muskogee, Indian Territory, November 17, 1906.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Sir:

You are advised that Starr & Patten, Attorneys for applicants in the Cherokee freedmen cases of Moses Riley, et al., have been advised that they will be permitted to introduce, on behalf of applicants, on December 7, 1906, the testimony of Robert Webber and Looney Glass, of Hayden, Indian Territory; and on behalf of Hannah Riley, whose case is consolidated with that of Moses Riley, et al., the testimony of the following witnesses:

Roddy Reese, Manard, Indian Territory

Bass Harlin, Melvin, " "

Thomas Harlin, Brushy, or Choteau, I. T.

Clark Grimmer, Fort Gibson, I. T.

Arch Carter, Fort Gibson, I. T.

Respectfully,

~~W. W.~~
S. W.

Commissioner.

Cherokee Freedmen
D 258 et al.

Muskogee, Indian Territory, December 14, 1906

Executive Secretary,
Cherokee Nation,
Tahlequah, Indian Territory.

Dear sir:

An effort was made to introduce in evidence in the Cherokee freedmen enrollment case of Moses Riley et al., the enclosed certificate of the Assistant Executive Secretary of the Cherokee Nation as to the records of the Commission on Cherokee Citizenship for the years 1878, 1879 and 1880, with reference to the proceedings had before that Commission in the case of Riley McNair versus the Cherokee Nation, which record, it is stated, is on file in your office.

It is requested that you forward the record referred to to this office at the earliest practicable date.

There is enclosed a franked envelope which requires no postage.

Respectfully,

Encl. 1 ex. large env.

Commissioner

L M B

Encl. B-73

Cherokee F D
258 et al.

Muskogee, Indian Territory, January 28, 1907.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, December 7, 8, 10, 11, and 12, 1906, in the matter of the applications for the enrollment of Moses Riley, et al., as Cherokee Freedmen.

Respectfully,

Incl. 6L-2.
GHL

Commissioner.

Cherokee F D
258 et al.

Muskogee, Indian Territory, January 28, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of supplemental testimony taken at Muskogee, Indian Territory, December 7, 8, 10, 11, and 12, 1906, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee Freedmen.

Respectfully,

Incl. GL-1.
GHL

Commissioner.

Muskogee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Moses Riley, et al. (D 255 et al), as Cherokee freedmen, together with the decision of the Commissioner, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Curle and Ethel Townsend, and rejecting the applications for the enrollment of Moses, Lillie, Andrew, Nathaniel, Jesse, Joseph, Ollie, Viola, Mabel, Minora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E., Clarence, Jerry, Samuel, James H., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Fannie Scott, Charles Wesley Miller, Hessie and Jimmie Scott, Delilah, Allie, Lomen, Jesse, Alfred, Nola, Della, Ella, Harrison, Lottie, Rebecca, Luford, Wilbert and Arch Johnson, Jane Riley, Daniel Thompson, Klick, Amanda, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Sandy Thompson, Ruth, Lenora Odine and Hannah Riley, Charles Landrum,

Bettie McIntosh, William Riley, Carrie Gibson, Sara J. and
Oval Wagener, Arthur Riley, Elizabeth and Elmore Nelson,
Julius, Riley, Willie, Edward, James, George, Stephanie and
Beatrice Garis, Ophelia, Alpha, Libbie, Kirshel, Harvey and
Glyde Thompson, Nellie, Rosa, George and Arthur Townsend,
Hana Furtle, Ellen Dean, Walter, Vaneen, Frank, Riley and
Levat Vann, as Cherokee freedmen.

Respectfully,

SIGNED *Tams Bixby.*

Commissioner.

Ind. B-66
JMH

Through the Commissioner
of Indian Affairs.

Cherokee F.
D 258

Muskogee, Indian Territory, February 27, 1907.

Moses Riley,

Wimer, Indian territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting, among others, the applications for the enrollment of yourself and daughter as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams Burt*

Commissioner.

Encl. H-20
JMH

Register.

Cherokee F.
D 258 et al.

Muskogee, Indian Territory, February 27, 1907.

Starr & Patten,
Attorneys for Moses Riley, et al.,
Muskogee, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Curls and Ethel Townsend as Cherokee freedmen, and rejecting the applications for the enrollment of Moses Riley, et al. as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. B-48
JMH

Commissioner.

Cherokee F.
D 258 et al.

Muskogee, Indian Territory, February 27, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Curle and Ethel Townsend as Cherokee freedmen, and rejecting the applications for the enrollment of Moses Riley, et al. as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. E-50
JMH

Commissioner.

(COPY)

LAND
21760-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the consolidated application for the enrollment of Moses Riley, et al., as Cherokee freedmen, wherein a final decision of rejection was rendered by the Commissioner as to all the parties applicant on February 27, 1907.

This case was remanded by the Department for further investigation, and a large number of witnesses were sworn and testified in the case, and 285 pages of additional testimony taken. In addition to the oral evidence, certain original and certified copies of records throwing light on the contentions of the parties, were filed with the record and are now submitted.

Commissioner Bixby found that the applicants had not been in such a manner recognized by the tribal authorities of the Cherokee Nation as freedmen of that Nation as to entitle them under the present laws to enrollment as freedmen of the Cherokee Nation. The Office cannot concur in this recommendation.

The Supplemental evidence submitted, in the judgment of the Office, by a clear preponderance thereof shows that

(2)

Samuel Riley, or Riley McNair, who was at the beginning of the War of the Rebellion a slave of a Cherokee citizen, returned to the Cherokee Nation within the time prescribed by the treaty of 1866 and re-established himself therein. Documentary and other evidence clearly showing recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the Nation is in the record. It is also shown that all the applicants have resided throughout their entire lives, or for many years, in the Cherokee Nation, and no serious question has been raised as to their right to so remain and occupy the tribal lands.

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered: Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mahel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, -(son of Lottie Riley), Jerry Riley, Samuel Riley, James M. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Pessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson,

(3)

Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Lenora Odine Riley (child of Jesse Riley), William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Ethel Townsend, Emma Purtle, Frank Riley and Lovat Vann (children of Emma Purtle and Jesse Vann), Julius Curls, Jr., -(son of Riley Curls), Oak Leon Wagoner (son of Cora J. Wagoner), Jesse Barnett (son of Maud and William Riley), Ellen Vann, Walter Vann, Maneta Vann, and John C. Wiley (son of William Wiley).

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

EBH-LC..

VI
175

(COPY)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 4, 1907.

Land

21888-1907
21899-1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed records of the Commissioner to the Five Civilized Tribes in the matter of the applications of Julius Curle and Elmore Vann, applicants for enrollment as Cherokee freedmen, wherein decisions adverse to them were rendered by the Commissioner to the Five Civilized Tribes.

On the 2nd instant the Office in forwarding the Cherokee freedman case of Moses Riley recommended that the parents of these applicants, through whom they claim their rights, be enrolled. It necessarily follows, since the applications in these cases were made within the time prescribed by law, that if the parents were entitled, so are the children. It is therefore recommended that the adverse decisions of the Commissioner in these cases be reversed and that Julius Curle and Elmore Vann be enrolled as Cherokee freedmen.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBH-GH

(COPY)

Land.

21,902-1907.

21,912-1907.

21,909-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the applications for enrollment of Jesse Riley, Oak Leon Wagoner and Alice Riley, as Cherokee freedmen.

The Commissioner to the Five Civilized Tribes rejected these applicants because he had already rejected their parents who were involved in the consolidated Cherokee freedmen case of Moses Riley, et al.

On the 2nd instant in forwarding the case of Moses Riley, et al., the Office recommended the enrollment of the parents of each of these minors.

It is therefore recommended that the adverse decisions of the Commissioner in these cases be reversed, and that the applicants be enrolled.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

(E.B.H.) P.

E.I.
H.C.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
J.W.H.
W.C.P.
J.R.W.

I.T.D.
7912-1907.
8018-1042-1907:

F.L.C.

March 4, 1907.

The Commissioner to the
Five Civilized Tribes.

Sir:

The Department has considered the record in the matter of the consolidated applications for the enrollment of Moses Riley et al. as Cherokee freedmen, which was the subject of your decision of February 27, 1907, adverse to the applicants.

It seems that this case is now before the Department with additional testimony taken upon rehearing beginning October 26, 1906. There is no question as to the right of the common ancestor of these applicants, as well as the older parties to the case, to avail themselves of the opportunity afforded by article 9 of the treaty of 1866, between the United States and the Cherokee Nation, to acquire citizenship therein. The only question in issue concerns the date of the return of the common ancestor and his children to the Cherokee Nation. On the part of the applicants it is alleged that such return was made in the year 1866, it being claimed that the father of the family went first to the nation early in the spring of that year, and later returned to Kansas for the other members of the family, with whom he removed from Kansas to the Cherokee Nation in the fall of that year.

On behalf of the Cherokee Nation it is contended that the head of the Riley family did not go to the Cherokee Nation until the spring of 1867, and that the removal of the family did not follow until the fall of that year.

In your said decision of February 27, 1907, you state that the testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the McNair place (in the Cherokee Nation) by any member or members of this family in 1866, and that none of said family was on that place "after the war of the rebellion, earlier than, possibly, May, 1867". This statement is presumably designed as a finding contrary to certain portions of the testimony of the applicants tending to show that the head of the family raised a crop of corn on the McNair place during the year 1866.

It is further stated in said decision that the testimony introduced on behalf of the applicants, to the effect that when the Riley family left the State of Kansas, they went direct to the said McNair place in the Cherokee Nation, is uncontradicted. Following this statement an analysis is made of the testimony of Judge William Spriggs, which was in favor of the applicants, and the inference is drawn that the testimony of Mr. Spriggs is inaccurate in respect to time.

Reference is also made by you to the census roll of citizenship of the Cherokee Nation prepared in the year 1867 by W. Tompkins, who was appointed by the United States as

commissioner for that purpose. As the applicants' names do not appear upon this roll you infer that they did not return to the nation within the time limited by the treaty of 1866. Reference is also made to the decision rendered by a commission on citizenship in the Cherokee Nation about the year 1878, or 1879, relative to one Riley McNair. The record does not clearly disclose anything concerning this decision, save that it went "by default" apparently in favor of the plaintiff.

Reporting in the matter, March 2, 1907, the Indian Office stated that it could not concur in your recommendation adverse to the applicants, finding that the supplemental evidence, by a clear preponderance of proof, showed return of Samuel Riley, or Riley McNair, to the Cherokee Nation within the time prescribed by the treaty of 1866. The Indian Office also notes the existence of documentary and other evidence which, in its opinion, clearly shows recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the nation.

The Indian Office further shows that all the applicants have resided throughout their entire lives, or for many years, in the Cherokee Nation, and that no serious question has been raised as to their right to occupy tribal lands.

Concluding its report of March 2, 1907, the Indian Office recommends the enrollment of certain of the applicants,

but not all of them, in the following language:

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered: Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Idella Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley (son of Lottie Riley), Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Lenora Odine Riley (child of Jesse Riley), William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Ethel Townsend, Emma Purtle, Frank, Riley and Lovat Vann (children of Emma Purtle and Jesse Vann), Julius Curls, Jr. (son of Riley Curls), Oak Leon Wagoner (son of Cora J. Wagoner), Jesse Barnett (son of Maud and William Riley), Ellen Bean, Walter Vann, Waneta Vann, and John C. Riley (son of William Riley).

The Department has considered the additional testimony taken at the rehearing, and has further examined in connection therewith the testimony of the principal applicants taken thereto-
fore. The work of examining the case has been materially

lightened by the careful briefs submitted by the attorneys, both for and against the applicants. In connection with said arguments there was submitted by the attorneys for the parties in interest a synopsis or analysis of the testimony relied upon, from which the relative weight of their contentions can be determined with some degree of certainty. With the assistance of said attorneys, and in view of the examination of the record referred to above, the Department has been able to reach a conclusion in the case.

It is not considered that the reasons given in your decision are sufficient to support the conclusion therein reached. It is believed that your decision is based more upon inference and negative proof than upon positive showing adverse to the applicants.

On the other hand it is found that the testimony of numerous witnesses who were acquainted with the older applicants during the war of the rebellion, and prior to the treaty of 1866, shows with a high degree of certainty that said applicants left the State of Kansas and removed to the Cherokee Nation in the fall of 1866. This conclusion is corroborated by various official records, which show that in the years past the members of the family have been regarded as citizens of the Cherokee Nation. Prominent among the witnesses who testified in their favor is Judge William Spriggs, referred to above. It appears that he is a man who has held positions of high honor in the

State of Kansas, and that his testimony is entirely trustworthy. Such testimony is verified in material respects by that of numerous other white citizens of Kansas, who were his neighbors during the war. According to the testimony of Judge Spriggs, he advised the father of the principal applicants early in the year 1866, during the pendency of the treaty with the Cherokee Indians to remove to the Cherokee Nation, in order to secure their rights. An effort has been made to discredit the testimony of Judge Spriggs because it tends in part to show that the Cherokee freedmen were adopted by act of Congress, or treaty, in the spring of 1866, when as a matter of history the treaty with the Cherokees was not ratified until July 19th of the year 1866.

It is found, however, that at the close of the war of the rebellion new treaties with the Five Civilized Tribes were necessary on account of the attitude assumed by them during the war, and because of the changed conditions resulting from it. Consequently negotiations with said tribes were begun as soon as possible after the close of the war, and were under way as early as April of 1866. The testimony of a number of other prominent citizens in Kansas was given in favor of the applicants, showing the date of their removal to the nation. Said testimony is largely cumulative in character, and need not be further referred to. It is considered important, moreover, to observe that the testimony of the principal applicant in 1901, compared with that given him more than five years thereafter, is notably consistent in all material respects.

The testimony submitted on behalf of the Nation is not deemed sufficient to overcome that presented by the applicants or to show, of itself, that they should be denied enrolment. No serious attempt was made to refute the statements of Judge Spriggs and his neighbors although some effort was made to establish generally the probability of error in testimony after lapse of years. But if there is such probability it is no more likely to occur on one side than on the other, and in the case of Judge Spriggs and his associates I find that their memories were fortified and reinforced, through association, by important matters and events which enabled them to fix definitely the date of applicant's removal to the Nation. The Nation places considerable stress upon the testimony of Mary J. Thompson who claimed to have returned after the war to the Old McNaair place, in the Cherokee Nation, in the fall of 1866, and who testifies that none of the Riley boys made a crop upon the place that year. This testimony necessarily relates to the spring and summer of 1866, yet it is not claimed that she herself returned to the Nation until November 1866. Manifestly decisive weight should not be attached to her testimony under such circumstances, her statements being, like that of others relied upon by the Nation, negative rather than positive. Even though all the force claimed be given the testimony of this witness as well as to that of others, including, particularly, Herman Vann, Key Catcher, and J. H. Covell, the De-

partment would not be warranted in denying the enrolment of the applicants, except as noted hereinafter. Accordingly, as the Department concurs in the recommendation of the Indian Office, you are directed to enroll the persons mentioned herein, whose names are contained in the extract quoted from Indian Office report of March 2, 1907, and set forth above, as Cherokee Freedmen.

Your decision of February 27, 1907 is reversed as to the persons named in Indian Office report of March 2, 1907 (Land 21760 - 1907) but as to the other persons who are parties to this case, your said decision, adverse to them, is hereby affirmed.

The Department has also considered the Cherokee Freedmen cases of Julious Curls and Elmore Vann, both of whom were denied enrollment by your decisions of February 28, 1907. The Indian Office recommends the enrollment of these children. Inasmuch as their parents are found herein to be entitled to enrollment, the Department concurs in the recommendation of the Indian Office and your said decisions, both dated February 28, 1907, are hereby reversed. You are accordingly directed to enroll Elmore Vann as a Cherokee freedman. The name of Julious Curls appears in the list quoted from Indian Office Report of the 2nd instant.

On February 28, 1908, by separate decisions, you also denied the enrolment of Jesse Riley, Oak Leon Wagoner, and Alice Riley, as Cherokee freedmen. The Indian Office reported under

date of March 4, 1907 that the enrolment of the parents of these children was recommended in its report of the 2nd instant. Such being the case, your said decisions of February 28, 1907, are hereby reversed and you are also directed to enroll the said Jesse Riley and Alice Riley as Cherokee freedmen. As to Oak Leon Wagoner, his name also appears hereinbefore in the list quoted from Indian Office letter of March 2, 1907.

A copy of this decision has been sent to the Indian Office, together with the papers in the cases referred to herein.

Very respectfully,

Jesse E. Wilson,

Acting Secretary.

A F Mc
3-4-07.

Muskogee, Indian Territory, March 13, 1907

A. F. McGarr,

Room 116 Department of the Interior.

Washington, D. C.

Dear Sir:

There are returned herewith schedules transmitted with your letter of March 7, 1907, to be checked with the records of this office. The corrections to be made on the schedules are indicated thereon, as well as data from which to complete the same.

Your letter addressed to the Department under date of March 4, 1907, relative to certain applicants embraced in the consolidated Cherokee freedman case of Moses Riley et al., was forwarded to this office on March 9, 1907 for report and recommendation. A copy of the Commissioner's report of this date, is enclosed for your information.

October 16, 1905, the Commissioner transmitted a schedule containing the name of John Captain, Number 197, enrolled as a Delaware citizen of the Cherokee Nation.

This schedule appears, however, to have never been approved

A.F.No-2

by the Department, or any action taken thereupon.

Appearing upon the schedule of Cherokee Freedmen transmitted by you, are the names of Henry, Carlos, Flora B., Luellen, and George Rider, and Josie and Easter Alberty, opposite Numbers 4235 to 4241, inclusive. On February 28, 1907, the Commissioner transmitted a schedule containing the names of these applicants, but said schedule appears to have not been approved by the Department.

Respectfully,

Encl.-B-34

Commissioner

V. 13

Muskogee, Indian Territory, March 14, 1907

Starr & Patten,

Attorneys for Moses Riley et al.

Vinita, Indian Territory.

Gentlemen:

This office is in receipt of your letters of March 7 and March 8, 1907, in reference to the decision of the Commissioner in the Cherokee freedmen cases of Moses Riley et al., and in which you ask an explanation as to the delay in sending you a copy of the Commissioner's decision.

In reply you are advised that on account of the great number of citizenship cases in which the Commissioner had to render decisions prior to March 4, 1907, it has been impossible to promptly notify the parties at interest of the Commissioner's decision as rendered.

Respectfully,

L. V. B.

Commissioner

Cherokee F.
D 258.

Muskogee, Indian Territory, March 27, 1907.

Moses Riley,
Wimer, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting the application for the enrollment of yourself and others, as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, and your applications granted.

Respectfully,

Commissioner.

LMC

COP:

Cherokee F.
D 258 et al.

Muskogee, Indian Territory, March 27, 1907.

V. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting the application for the enrollment of Moses Riley, et al., as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, as to Moses Riley et al., and affirmed as to Jane Riley, et al.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED).

Tame Bixby.
Commissioner.

Encl.C-4
LMC

Cherokee F.
D 258 et al.

COPY

Muskogee, Indian Territory, March 27, 1907.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting the application for the enrollment of Moses Riley, et al., as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, as to Moses Riley et al., and affirmed as to Jane Riley, et al.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Bi*

Commissioner.

Encl.C-5

LMC

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

April 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is acknowledged of Departmental letter of March 9, 1907 (I.T.D. 8156-1907), enclosing for early report and recommendation a letter from A. F. McGarr, of this office, relative to Departmental decision of March 4, 1907, in the Cherokee freedman case of Moses Riley. Attention is called to the fact that Clarence Curls and Ethel Townsend, whose applications for enrollment as Cherokee freedmen were embraced in the consolidated Cherokee freedman case of Moses Riley, et al., the subject of Departmental decision of March 4, 1907 (I.T.D. 7912-8018-8042-1907), died prior to September 1, 1902, and their applications for enrollment dismissed by the Commissioner in his decision of February 27, 1907. Their enrollment, among others, was directed by the Department in its said decision. Mr. McGarr states that he is unable to find from the record in the case that any application was made for the enrollment

of John C. Riley, whose enrollment was directed by the Department in its decision in the Moses Riley case. Attention is also called to the fact that Julius, minor child of Riley Curle, is enrolled as a Cherokee freedman under the Act of July 1, 1902, opposite No. 4323, upon a partial roll approved March 4, 1907, and is also enrolled as a minor freedman citizen, under the Act of April 26, 1906 (34 Stat., 137), opposite No. 595, upon a schedule approved on the same date, as Julious Curle.

In reply you are respectfully advised the record in the consolidated Cherokee freedman case of Moses Riley et al., the subject of the Commissioner's decision of February 27, 1907, shows that said Clarence Curle and Ethel Townsend died prior to September 1, 1902, and the applications for their enrollment as Cherokee freedmen were therefore dismissed. Their enrollment as Cherokee freedmen was directed by the Department in its decision of March 4, 1907, above referred to, and it appears that their names are contained in a schedule of Cherokee freedmen approved March 4, 1907, opposite numbers 4306 and 4318, respectively.

The Department on page four of its decision of March 4, 1907, in the Moses Riley case, directed the enrollment of Julius Curle Jr., son of Riley Curle, and on page eight of said decision, reversed a separate decision of the Commissioner,

dated February 28, 1907, rejecting the application for the enrollment, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), of Julius Curle, which persons are one and the same. It appears that the name of Julius Curle, Jr., appears upon a partial roll of Cherokee freedmen approved by the Department March 4, 1907, opposite number 4323, and that the name of said child, as Julius Curle, appears upon a partial roll of Cherokee freedmen enrolled under the Act of April 26, 1906, and approved March 4, 1907, opposite number 595.

Among the persons whose enrollment was directed by the Department in the Moses Riley case, appears the name of Jesse Barnet, referred to as a "son of Maud and William Riley." The application for the enrollment of Jesse Barnet was, with the case of his mother, Maud Riley, included in the consolidated Cherokee freedman case of Katie Ridge et al., above referred to, and the Commissioner's decision adverse to them as above stated was affirmed by the Department March 4, 1907. The record in the case of said Jesse Barnet shows that he is a child of Maud Riley, wife of William Riley, by one Joe Barnet, who is not shown to possess any right to Cherokee freedman citizenship.

It therefore appears that of the four persons already mentioned, two, Clarence Curle and Ethel Townsend, died prior

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to September 1, 1902, and were therefore not entitled to enrollment; one Julius Curle (or Julius Curle, Jr.) is enrolled under two different names; and that one Jesse Barnett, for whom application was made under the Act of April 26, 1906, was not entitled to enrollment for the reason that neither of his parents is an enrolled citizen.

Upon this state of facts the question which arises is; what action shall be taken, if any, to correct the apparent mistakes which have been made in enrolling the persons mentioned.

As all of said persons appeared at the close of March 4, 1907, upon the rolls of the Cherokee Nation, the only correction which could be made so far as their enrollment is concerned is to strike them from the rolls.

The Act of April 26, 1906 (34 Stats., 137), provided in part:

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

There can, of course, be no doubt that neither this office nor the Department had, after March 4, 1907, no power to place the name of any person upon the roll of any of the Five Tribes or to approve the enrollment of any applicant. From the language of the Act, however, some doubt arises as

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to whether the Department has the power to strike from the roll as it existed at the close of March 4, 1907, any names for any reason whatsoever.

After mature consideration I have come to the conclusion that the intention of Congress must be held to have been that at the close of March 4, 1907, the rolls should be completed, that is, final in every respect, and that from and after the fourth of March, 1907, the Department should have no power to strike names therefrom in any case. It seems that the language "fully completed" necessarily implies the intent that not only should the rolls not be added to but that no names should be taken therefrom, and that the rolls as they stood upon that date should represent the final judgment of the Department as to persons entitled to enrollment under the various agreements and Acts of Congress pertaining to that work.

The title of the Act of Congress of April 26, 1906, is as follows: "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes." It would appear that if Congress has left to the Department the power to investigate the rights of persons who were upon the roll of March 4, 1907, it utterly failed to provide for the final disposition of the most important work of this office and of the Department.

Unless the provisions of the Act which have been quoted are construed to deprive the Department of the power to strike names from the rolls after March 4, 1907, then there is no provision of Congress putting a time limit upon the exercise of such power, and until there was such a time limit there could, of course, be no final disposition of the affairs of the Five Civilized Tribes.

In the Indian Appropriation Act of June 21, 1906, it was provided

"That the Secretary of the Interior shall upon completion of the approved rolls, have prepared and printed in a permanent record book such rolls of the Five Civilized Tribes and that one copy of such record book shall be deposited in the office of the recorder in each of the recording districts for public inspection."

It would seem, from said provision, that Congress believed that it had provided for a time when there could be said to have been a completion of the approved rolls, and that the "completion" meant such a final state that the rolls might have the quality of stability and unchangeableness so requisite and necessary to public records upon which title to lands depends.

It therefore seems that, taking all the Agreements and Acts of Congress into consideration, it was the intent of the provision of the Act of April 26, 1906, to provide for the

completion of the rolls of the Five Civilized Tribes in the sense that they should be on and after that date final, and as much a protection to those citizens who were on the roll against an attack upon their citizenship thereafter as an inhibition upon the adding of any further names.

So far as the object of the Act "To provide for the final disposition of the Affairs of the Five Civilized Tribes" is concerned it was fully as important to deprive the Department of the power of striking names from the rolls as it was to deprive it of the power of adding names thereto. And in the most general and broad view of the matter I believe it is of the utmost importance to all citizens, that the rolls as they existed upon March 4, 1907, should have the attribute of permanency and finality. Just so long as the Department has the power to investigate the rights of the citizens whose names are upon the roll and ascertain whether their names were placed thereon by fraud or mistake in law or fact, just so long will the title of every Indian citizen have upon it a cloud in the shape of a possibility that at sometime his citizenship may be questioned.

In my opinion, if it were held that there is no time limit upon the power of the Secretary to strike names from the rolls, the "permanent" record books which the

Secretary is directed to have printed and distributed to the recording offices would not have the value which Congress intended that they should have.

For the reasons which I have given, I do not believe that any name should be stricken from the approved rolls as they existed at the close of March 4, 1907. In saying this I should further say that in my opinion there are undoubtedly upon the rolls, the names of persons who are not entitled to enrollment; that those names were placed thereon in some instances through fraud which has not yet been detected, in others through mistakes in fact, and in some cases possibly through mistakes in law. I firmly believe, however, that so far as the material welfare of the citizen members of the Five Civilized Tribes is concerned, it is vastly more for their interest that the rolls as now made up should be held to be absolutely final as well in favor of persons whose names are now on the rolls as against claimants whose names have never been put thereon, than it would be to correct mistakes and injustices in the individual cases of those wrongfully upon the rolls.

And as I believe that the true construction of the Act of April 26, 1906, is in consonance with this theory, and as the question has been directly raised by the request

of the Department that I make a recommendation in the matter of the persons named in this letter, I respectfully recommend that no names be stricken from the approved rolls as they existed at the close of March 4, 1907.

The persons who are wrongfully upon the Cherokee rolls can be for the purpose of convenience divided into three different classes.

First: Those persons who died prior to September 1, 1902.

Second: Those persons who have been enrolled twice under the same name opposite different numbers or who have been enrolled twice under different names.

Third: Those persons who have been enrolled and whose enrollment is wrongful for some reason other than stated in the first two classes.

As to the first class, within which the cases of Clarence Curle and Ethel Townsend come, it seems that in no event even though they remain upon the final roll as therein recommended, can an allotment of lands be made for them. See Section 31 of the Cherokee Agreement (32 Stats., 716). As to this class of persons the striking of their names from the rolls so far as the question of making an allotment to them is

concerned is not important. As to them I respectfully recommend that a notation be placed upon the rolls in the possession of the Department and the Commissioner, for the information and guidance of this office in making allotments which notation shall show the fact, whenever it is proven to the satisfaction of the Department, that the party indicated died prior to September 1, 1902.

I therefore recommend in regard to Clarence Curle and Ethel Townsend, that opposite their names upon the approved schedule be placed this notation: "Died prior to September 1, 1902; not entitled to allotment."

As to the second class of persons mentioned, within which would come the case of Julius Curle (or Julius Curle, Jr.) it appears plain to me from the provisions of all the Agreements and Acts of Congress that the fact that the name of one person be twice upon the roll of any nation would not entitle him to two allotments in the nation. And therefore as to this class of persons it would seem that so far as their allotments are concerned the striking of one of the names from the roll is not necessary, but that opposite the name which constitutes the duplication there can be placed for the convenience and information of the Department and this office a notation

indicating that the name is a duplication and that no allotment should be made to the person whom it represents under that name.

As the application for the enrollment of Julius Curls (or Julius Curls, Jr.), was made under the provisions of the Act of Congress approved April 26, 1906, under the name of Julius Curls the name of Julius Curls, Jr., as it appears opposite number 4323 on the partial roll of Cherokee freedmen there be placed this notation: "Duplication; see Cherokee Freedman roll, Minor Children, number 595; no allotment to be made under this name."

In consonance with my opinion above expressed I respectfully recommend in the case of Jesse Barnett who is enrolled simply through a mistake in fact that his enrollment be not disturbed.

The application for the enrollment of John C. Riley which is also mentioned by Mr. McGarr was embraced in the Cherokee freedman consolidated case of Katie Ridge, et al., D 295 et al, and his application was, among others, denied by the Commissioner on February 28, 1907, and the Commissioner's decision was affirmed by the Department March 4, 1907 (I.T.D. 8072-1907). Said John C. Riley is a son of William Riley,

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whose enrollment was directed by the Department in the Moses Riley case, and it appears, therefore, that his enrollment upon the partial roll of Cherokee freedmen approved by the Department opposite number 4329, should not be disturbed.

Mr. McGarr's letter is returned herewith.

Respectfully,

Commissioner.

Through the

Commissioner of Indian Affairs.

D.C.27558-1907.

I.T.
47951-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

GAW

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 4, 1907, there was received by the Department motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application of Moses Riley, et al, for enrollment as Cherokee freedmen.

On May 17, 1907, the Department denied the motion. It is said in the Department's letter, however, that the denial of the motion will not affect the question as to the enrollment of Moses Riley, Clarence Curle, Ethel Townsend, John G. Riley and Julius Curle, Jr., which was submitted with Office letter of April 13, 1907, and is now pending before the Department.

You are requested to advise the interested parties, including the Attorney for the Cherokee Nation, of the Department's action.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Cherokee F
1562 et al.

Muskogee, Indian Territory, June 10, 1907.

Messrs. Starr & Patten,
Attorneys for Moses Riley, et al.,
Vinita, Indian Territory.

Gentlemen:

You are advised that the motion of the Attorney
for the Cherokee Nation to reconsider, review and reverse
Departmental decision of March 4, 1907, in the matter of the
application for the enrollment of Moses Riley, et al., as
Cherokee freedmen was denied by the Department May 17, 1907.

For your information there is enclosed copy of
Departmental decision referred to.

Respectfully,

Encl W-1.
S.W.

Commissioner.

Cherokee P 1569

Muskogee, Indian Territory, June 10, 1907.

Moses Riley,

Wimer, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application for the enrollment of yourself and others as Cherokee freedmen was denied by the Department May 17, 1907.

Respectfully,

S.W.

Commissioner.

Cherokee F
1568 et al.

Muskogee, Indian Territory, June 10, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl. W-2.
S.W.

Commissioner.



Department of the Interior.

Commission to the Five Civilized Tribes.

MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, \$300.

3985

Mr. Moses Riley,

Chelsea, Indian Territory.





Cher Fr 1569

Trans. from Cher Fr D260

Cher Fr 1569

Mellette & Smith attorneys for applicant:

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 11th 1901.

In the matter of the application of Andrew Riley for the enrollment of himself and one child as Cherokee Freedmen; he being sworn by Commissioner T. B. Needles, testified as follows:

- Q What is your name? A. Andrew Riley.
Q How old are you? A. 55.
Q What is your post office address? A. Alloway.
Q In what district do you live? A. Cooweescoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Myself and child.
Q What is the name of this child? A. Nathaniel.
Q How old is he? A. Four years old.
Q Are you married? A. Yes sir.
Q What is your wife's name? A. Jennette.
Q Is she the mother of Nathaniel? A. Yes sir.
Q Is she a Cherokee Freedman? A. No sir.
Q Are you recognized by the Cherokee authorities as a Cherokee Freedman? A. In part.
Q Have you ever applied to be enrolled as a Freedman of any other tribe or nation? A. No sir.
Q Have you ever drawn any money from any other tribe or nation? A. No sir.
Q Is your name on the roll of 1880 roll? A. I think not.

By Mr. Mellette, attorney for applicant:

- Q What rolls does your name appear upon? A. Wallace and Kerns-Clifton.

The 1880 authenticated roll, and the 1896 census roll of the Cherokee Nation examined and the name of the applicants not found thereon.

The Wallace roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 126, No. 2655, Andrew McNair, Cooweescoowee district.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of the applicant identified thereon as follows:
Page 176, No. 4337, Andrew McNair or Riley, Cooweescoowee district.

- Q Where were you born? A. Here in the Territory.
Q In the Cherokee Nation? A. Yes sir.
Q Were you held as a slave in the Cherokee Nation before the war? A. Yes sir.
Q Who were your owners? A. Susan and Jack McNair.
Q Did you leave the Cherokee Nation during the war? A. Yes sir part of the time.
Q Where did you go? A. To Kansas.
Q When did you return to the Cherokee Nation? A. In '66.
Q What time in '66? A. In the fall.
Q Who was your father? A. Riley McNair.
Q Did he return to the Cherokee Nation with you? A. No sir.
Q When did he return to the Cherokee Nation? A. He came here in the Spring of 1866, and then went back and when he came that time I came back with him. He had made a crop here before he went back after the family.
Q Who of the family returned with him? A. The whole family.
Q How many children? A. Ten.
Q Where have you lived since your return in '66? A. In the Territory here.
Q What Territory? A. In the Cherokee Nation.
Q Have you ever owned a place on the Public Domain of the Cherokee Nation?

Nation? A. Yes sir.

Q How long have you owned it? A. Over thirty years, or longer.

Q Do you still own it? A. Yes sir.

Q Have you ever exercised any rights of Cherokee citizenship? A.

Yes sir, about all of the rights they allowed the rest.

Q What rights? A. Voted and drawing money, until they passed that "Blood Bill."

Q What elections did you vote at? A. All of them ever since I have been 21 years old.

Q Did you ever rent any land in this country to a non-citizen? A. No sir, I have never rented any, I have always tried to keep up what I had myself and never rented any out.

Q What was your father's name? A. Riley McNair.

By W. W. Hastings, for the Cherokee Nation:

Q You didn't come here with your father in the spring of '66? A. No sir.

Q This witness that testified a while ago that you did, was mistaken then? A. Yes sir.

Q You ~~had~~ didn't come until in the fall did you? A. No sir.

Q Your father is the only one that went back to Kansas for you and the rest of the family? A. Yes sir.

Q What time in the fall did you get back here? A. I cannot say exactly it was along in the first of November or the last of October, as well as I can remember.

Q Who came with your father first? A. When he first came down I cannot say exactly who came with him because he went to the place up there where they made up the emigrant train.

Q Did any of your family come with him that first time? A. No sir.

Q None of the other members of your father's family came until in the fall? A. No sir they all came in the fall of '66.

Q You were about 18 years old then were you not? A. Yes sir.

Q Do you know who was living there on the McNair farm when you came there in the fall? A. Jack McNair and his family.

Q His wife afterwards married Martin Thompson didn't she? A. Yes sir that is the one.

Q They were living there then were they? A. Yes sir.

Q You don't know how long they had been there ~~then~~ before you came do you? A. No sir.

Q Your father had made a crop there on that place that year before you got there? A. Yes sir, he had, at least there was corn there when we got there.

Q Andrew, was you mixed up with your brother Mose and your father in that little court business in Cooweescoowee? A. No sir I was not in that.

Q Where were you married—you were not married when you came down here in the fall of '66? A. No sir I was single.

By Mr. Hellette:

Q Is this child for whom you apply, living now? A. Yes sir.

Q Were you married to its mother? A. Yes sir.

Q Have you a certificate of your marriage? A. I haven't.

Q Have you any proof of your marriage? A. Yes sir.

Q What was your wife's maiden name? A. Gibson.

JESSE RILEY, called and sworn by Commissioner T. B. Needles, testified as follows on the part of the applicant:
(Examined by the Commission)

Q What is your name? A. Jesse Riley.

Q Do you know Andrew Riley, the applicant? A. Yes sir.

Q Do you know his wife Jennette? A. Yes sir.

Q Were they married? A. Yes sir.

Q How do you know they were? A. I saw them married.

Q You say them married did you? A. Yes sir.

Andrew Riley 3.

- Q Where were they married? A. On Snow Creek.
Q Who married them? A. Jod Smith of Coffeyville.
Q Are they living together now as man and wife? A. Yes sir.
Q Have they been living together as such ever since they were married? A. Yes sir.
Q Do you know their child? A. Yes sir.
Q What is the child's name? A. Nathaniel.
Q Was he born since their marriage? A. Yes sir.

APPLICANT re-called and examined by the Commission:

- Q Were you ever married before you married your wife Jennette? A. Yes sir.
Q Was your former wife dead before you married this one? A. Yes sir.
Q Was this wife ever married before she married you? A. No sir.
Q You are her first husband are you? A. Yes sir.
Q Have you any proof of the birth of this child Nathaniel? A. Yes sir.

By Com'r Needles,-- Andrew Riley applies for the enrollment of himself and his son Nathaniel as Cherokee Freedmen; upon and examination of the authenticated roll of 1880 his name is not found thereon but it is found on the Kerns-Clifton pay roll and the Wallace roll, and he is duly identified according to the page and number of the rolls as indicated in the testimony. He avers and makes satisfactory proof as to marriage to his wife Jennetta Gibson, and he avers that she is a non citizen, and that by said marriage he has one child Nathaniel, five years of age, and he presents satisfactory proof as to the birth of said child. He makes satisfactory proof as to residence. Reference is made herein to the testimony taken in the case of Moses Riley, D. Card No. 256, and said testimony will be made a part of the case now under consideration and a copy of said testimony will be filed herewith and made a part of the record in his case. The said ~~Man~~ Andrew Riley and his child Nathaniel Riley will be listed for enrollment as Cherokee Freedmen on what is known as a doubtful card for the further consideration of the Commission. When the Commission arrives at a decision in this case he will be notified by mail.

* * * * *

Chas. von Weise, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 15th of May, 1901, At Vinita, I. T.

W. McKinstry

Commissioner.

73.

J. J. 260

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FIELD

MAY 11 1901



ACTING CHAIRMAN.

CHEROKEE FREEDMEN.

Date

Post Office

District

May 11, 1901

Allamore

Cros

1. Name Andrew Riley Age 6-3
 Owner's name Susana Mc Nair Citizenship Cherokee
 Year K.C. Page 176 No. 4337 District Cros

Parents:

Father Riley Mc Nair Citizenship

Mother Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Doubtful Citizenship

Mother Citizenship

Names of Children

2. Nathaniel Riley Year Page No. Dist. 54
 4. Year Page No. Dist.
 5. Year Page No. Dist.
 6. Year Page No. Dist.
 7. Year Page No. Dist.
 8. Year Page No. Dist.
 9. Year Page No. Dist.
 10. Year Page No. Dist.
 11. Year Page No. Dist.
 12. Year Page No. Dist.

Application made by

Stenographer

Ms. 1
 1 On K.C. roll as Andrew Mc Nair or Riley
 1 "Wallace" Page 126 #2653 - Andrew Mc Nair - Cros
 2 aff. of birth to be supplied.

X +, K 25-8

Melville and Smith, attys for applicants.

Charles Friedman
COPY. *D 260*

IN RE

Application for Enrollment of
INFANT CHILD

Nathaniel Riley

as a citizen of

Charles

Nation

Approved *MAY 11 1901* 190

T.B. Needles.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED

[Signature] CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cherokee Nation,
of Nathaniel Riley, born on the 21 day of May, 1896.
(Here insert name of child.)
Name of Father: Andrew Riley a citizen of the Cherokee Nation.
Name of Mother: Janette Riley a citizen of the U.S. Nation.
Postoffice: Cherokee, I. T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Janette Riley, on oath state that I am 35
years of age and a citizen by marriage of the U.S. Nation;
that I am the lawful wife of Andrew Riley, who is a citizen, by
Adoption of the Cherokee Nation; that a male child was
(Male or Female.)
born to me on 21 day of May, 1896, that said child has been named
Nathaniel Riley, and is now living.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 9 day of May, 1901.

My commission expires March 17, 1904. Louis J. Brown
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Northern DISTRICT.

I, Lottie Johnson, a midwife, on oath state that I
attended on Mrs. Janette Riley, wife of Andrew Riley
on the 21 day of May, 1896, that there was born to her on said date a male
(Male or Female.)
child; that said child is now living and is said to have been named Nathaniel Riley.

WITNESSES TO MARK:

(Must be Two Witnesses.)

Subscribed and sworn to before me this 9 day of May, 1901.

My commission expires March 17, 1904. Louis J. Brown
Notary Public.

COMM. TO THE FIVE CIVILIZED TRIBES
CHALSEA, I. T.
AUG 27 1901
To be filed with the case of Andrew Riley C.F.D.# 260

Department of the Interior,
Commission to the Five Civilized Tribes,
Chalsea, I. T. May 31st, 1901.

-ORDER-

By Commissioner C. R. Brocklinridge:

This testimony is additional
testimony and will be filed in Cherokee Freedmen Doubtful cases,
#253, #260, 261, #262, #263, #265, #266, #267, #268, #269, #270, #271,
#441 and #704.

=====

I, Chas. von Weise, upon my oath state that as stenographer to
the Commission to the Five Civilized Tribes I reported in full the
above order and that the foregoing is a full, true and correct,
transcript of my stenographic notes thereof.

Chas. von Weise
Subscribed and sworn to before me this 27th of August, 1901.

[Signature]
Commissioner

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 31 1901

ATTORNEY GENERAL

RECEIVED T. L. HAY STAG, 1901.
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF THE INTERIOR

THE COMMISSIONER IS REQUESTED

To be filed with the case of Andrew Riley O.F.D. #260

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May 11th 1901.

In the matter of the application of Moses Riley for the enrollment of himself and one child as Cherokee Freedman; said Riley being sworn and examined by Commissioner T. B. Needles, testified as follows:

Appearances:

Mellotte & Smith, Attorneys for applicant.
Messrs L. B. Holl and W. W. Hastings, for Nation

- Q What is your name? A. Moses Riley, or McNair.
Q Which is which? A. McNair.
Q I want to know what your name is now? A Riley.
Q What is your age? A. About 61.
Q What is your post office address? A. Chelsea.
Q What district do you live in? A. Shaweescoocwee.
Q You apply to be enrolled as a Cherokee freedman? A. Yes sir.
Q Who do you want to enroll besides yourself? A. Lillie.
Q Who is Lillie? A. My daughter.
Q How many children do you want to enroll? A That is the only one I can enroll.
Q How old is Lillie? A 16 years old.
Q Did you ever apply to be enrolled by any other tribe or Nation?
A No sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee freedman? A. Yes sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation?
A The Wallace and Clifton roll.

By Mr. Mellotte, of firm of Mellotte & Smith, Attorneys for applicants:

- Q Moses, where did you live during the war? A. Here in the Nation, in Saline District.
Q Were you a slave? A. Yes sir.
Q Who was your master? A. Olen McNair, and Susan McNair.
Q Were they Cherokee Indians? A. Yes sir.
Q Citizens of the Cherokee Nation? A. Yes sir.
Q Did you leave the Cherokee Nation during the war? A. Yes sir.
Q Where did you go? A. Kansas.
Q What was your father's name? A. Riley McNair.
Q When did you return to the Cherokee Nation? A In '66.
Q What time in '66? A In the fall.
Q Who came with you? A. My father and mother and ten children, ten of his children and my brother in law; that is when he moved his family.
Q Your brother in law, what was his name? A. James Curles, and my cousin and uncle.
Q Who was your cousin? A. Columbus Rogers, he is dead.
Q Who was your uncle? A. Jim McNair.
Q Where is he? A. He is dead.
Q Now, had your father been to the Cherokee Nation before ... returned with him? A. Yes sir.
Q Tell the Commission about that? A In the spring he come down in the spring.
Q What year? A. '66, and when he laid by his corn he went to get his family and moved them back in the fall.
Q Where did you go when you came here with your ... father? A ... to the old McNair place.
Q Where is that? A On the east side of Grand river.

Q What district? A Saline.

Q Did you have a sister named Bettie Riley or Bettie McNair? A Yes sir.

Q Where is she? A. She is dead.

Q How long since she died? A I can't tell just how long exactly how long it has been since she died.

Q About how long? (No response)

Q Ten years, or more or less? A I expect.

Q Did she return to the Cherokee Nation at the same time you and the rest of the family did? A Yes sir.

Q Was she on the authenticated roll of the Cherokee Nation? A Always so said to be.

Mr. Mellette: I would like, may the Court please, to see if Bettie Riley-

Q What was her name at the time she died? A Bettie Hamilton on the roll of 1880.

is on the roll of 1880 as Bettie Hamilton or Standard.

The 1880 authenticated roll of freedmen of the Cherokee Nation examined and the name of woman referred to not found thereon. under either the name Riley, Hamilton or Standard.

APPLICANT: She drew her money in 1880.

(The name of Columbus McNair is the only one by that name who appears upon the freedman roll of 1880)

(By Com'r Needles) How old would she (Bettie Hamilton) be in 1880? A If she lived now she would be about 54 or 56 years old.

(By Mr. Mellette.) Who were members of your father's family at the time you returned to the Cherokee Nation in 1866? A Mellie Riley, Andrew, Mose Riley, Jerry Riley, Jesse Riley, Frank Riley, Emma Riley, Fanny Riley, Lizzie Riley, Bettie Riley, Belliah Riley.

Q Have you lived in the Cherokee Nation since you returned here in 1866? A Yes sir.

Q Never lived any other place since that time? A. No sir.

Q Have you ever exercised any rights of citizenship in the Cherokee Nation since you returned here? A Yes sir, I have got permits they call white man, just like there other Indians.

Q For what? A For them to work for to make corn.

Q Who would issue these permits, by what officers? A Joe Lahay at Claremore.

Q Ever exercise any other rights of citizenship in the Cherokee Nation? A Voted ere since I have been old enough.

Q For what officers did you vote? A. All of them.

Q Did the Cherokee authorities ever object to your voting? A No, sir; never did.

Q Have you any family in the Cherokee Nation? A. Yes sir.

Q How long? A. Ever since I got big enough to own any I have had some kind of one all the time.

Q You say you are on the Wallace roll and the Kern-Clifton roll? A Yes sir.

The 1880 authenticated roll of freedmen of the Cherokee Nation examined and applicants name not found thereon.

The 1896 census roll of freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton roll of freedmen of the Cherokee Nation examined and the names of the applicants found thereon as follows: page 176, #4338, Mose McNair, or Riley, Cooweescoowee District. Page 122, #5047, Lillie McNair, Cooweescoowee District.

The Wallace roll of freedmen of the Cherokee Nation examined and applicant's name found thereon page 127, #2661, Mose McNair.

Cooweescoowee district.

(By W. W. Hastings, Cherokee Representative)

- Q You didn't come with your father when he first came? A No sir.
- Q What was your father's name? A Riley McNair.
- Q Where did you first come to when you come here to the Cherokee Nation? A. The old McNair place.
- Q Was that in Saline District? A Yes sir.
- Q Who were your neighbors down here? A Saturday Vann and her children and Betty Squirelstick and Mary Stinkewater.
- Q Did you come in a wagon? A. Yes sir.
- Q Did anyone besides the members of your family come along? A My uncle and brother in law.
- Q What was their names? A. John McNair and Columbus Rogers.
- Q From what point in Kansas did you come? A. Garnett, Anderson County
- Q Did you come in the spring or fall? A Come in the fall.
- Q About what time in the fall did you come? A I don't know, sir, just exactly what time, I can't tell exactly what time, but it was in the fall: old man laid by his corn and then went up there and wasn't so very long before he returned again.
- Q Upon whose place did he make a crop that year? A On the old McNair place, Jack McNair's place.
- Q Was Mr. Martin Thompson living there at that time? A Yes sir.
- Q She was living there was she? A Yes sir.
- Q Did she have any family, Mrs. Martin Thompson? A Old man McNair just had got in.
- Q Did they have any children? A. Had some little bitsey ones, baby and another little one or two.
- Q Did your father take a wagon back up there for his family? A Yes sir, he took an old Texas Pump cart, fastens on the wagon tongue and dumps cotton out with.
- Q Was that his wagon? A Belonged to some of them down there, I can't tell you whose it was, we left it there on the old McNair place when we left there.
- Q You don't know whether it belonged to the Cherokee McNair family or not? A I can't say that, we left it there.
- Q How long did you live down there at that place where you first went to? A Made two crops, the old man raised there, we raised one after we come.
- Q And then where did you go to from there? A Went to Pryor Creek; well on the other side of where John Edwards lives now, two or three miles south of there under the foot of them mountains.
- Q How far is that from where Pryor creek now is? A I expect it must be seven miles up the Creek from there.
- Q Northwest? A Yes sir, little northwest.
- Q How long did you live there? A. I can't tell you how long, but we lived there quite a spell.
- Q Were you ever arrested by the Cherokee authorities? A Yes sir.
- Q What were you charged with? A. Stealing a hog.
- Q Did you have some other members of your family arrested at the same time? A Yes sir, two of them besides me, father and one of my brothers.
- Q Who were you charged of stealing the hogs from? A I guess they must have said it was Alex Riders hogs, I was not, I guess it must have belonged to some of the Riders, I never seen the hogs, but I was charged with it just the same.
- Q Alex Rider was some kin to Blue Rider? A Yes sir, his prother.
- Q That was out at the court house in Cooweescoowee district? A Yes sir, out on Leg's creek, kept us there in prison about eighteen days.
- Q And my little purtain and lady.
- Q Now would at that time claimed you were not citizens of the

Cherokee Nation? A Yes sir, we claimed we were citizens then.
 Q They didn't try you? A Yes sir, they tried us, I guess it is what you might call trying, a man and the jury and all sitting along there and old man Judge Rogers was the judge and well I was kinda little, but then they put and kicked around there and adjourned for dinner and they said to come back after dinner and the jury went out and come back and Judge Rogers said it was a verdict, it was a little piece of paper and Judge Rogers said I was clear.
 Q You didn't raise the question as to your citizenship at that time? A No sir; they knew we was citizens.
 Q Who was your lawyer? A Judge Hayes.
 Q Joel Hayes? A Yes sir.
 Q Is your mother's name Mariah McNair? A Yes sir.
 Q Were you present in 1886 when your case was tried, and here, you were all put in one case and tried? A Yes sir, we was all ten of us there, all ten children, we might not have been all in there.
 Q You had Andy Frye and Millie Frye as your witnesses? A Yes sir.
 Q You were present? A I was not in the house.
 Q You never heard them testify? A No sir; I never heard them testify.
 Q You don't know whether they said you come back in '67 or not? A No sir, I don't guess they could hearly state that and been justifiable in it, I don't think they could of.
 Q You state you were not present? A No sir, I was not in there.
 (By Mr. Hallette)
 Q When was it you were tried in the Cherokee Courts for hog stealing? A I don't know.
 Q Have you an idea when it was? A It must have been, to the best of my memory, somewhere along about , close I expect, if I would say anything, I would say about '88, somewhere about there.
 Q The Representative of the Cherokee Nation mentioned the name of Mrs. Martin Thompson and asked if she was on the McNair place at the time you arrived in 1888, who was she? A She was Jack McNair's wife; he married in Texas, I don't know where he married her, but anyhow he brought her back there.
 Q You say she was on the place at the time you arrived there? A She was on the place when father brought us there and I don't know whether she was there when he come back or not.
 Q If she had married Jack McNair she would not be called Thompson? A Jack McNair's brother in law married Jane Thompson.
 Q She was Mrs. McNair when you went there? A Yes sir.

MOSES HARDRICK, being duly sworn by Commissioner T. B. Needles, testified as follows: (Examination by Mr. Hallette)

Q What is your name? A. Moses Hardrick.
 Q Where do you live? A Live out on Pryor Creek.
 Q How long have you lived in the Cherokee Nation during the war? A Yes, sir, the Federal army taken me out.
 Q Where did you go? A Fort Scott, Kansas.
 Q Do you know Moses Riley, Yes, sir.
 Q Did you know his father? A Yes sir.
 Q What was his name? A. Riley McNair.
 Q Where did you first know Riley McNair? A Right down here at Saline when we was boys.
 Q Cherokee Nation? A. Yes sir.
 Q Did you see him in that state of Kansas during the war? A. I did.
 Q When did you return to the Cherokee Nation " A I returned here in the spring, the Indians said it was 1866.
 Q Who came with you? A. Uncle Tom Morris, brother Jeff Lyons, Riley McNair.
 Q Riley McNair, the father of Moses? A Yes sir.
 Q Where did you come when you returned to the Cherokee Nation? A To the old Dr. Thompson's.

Q Where did he go? A. He said he was going down to his old Master's place.

Q Riley McNair said he was going down to his old Master's place? A Yes sir.

Q That is who? A. Clem McNair.

Q Was he alone or with his family at that time? A. He was alone.

Q What, if anything, do you know in regard to his bringing his family.

A No, I don't; he said he was going after it in the fall and bring it down.

Q Did you see him at any time after he, after you parted with him?

A Yes sir, I seen him along in the summer along in roasting ear time.

Q Did he make any declaration to you at that time about going to Kansas after his family? A Said he was going after them after he laid his crop by.

(By P. B. Bell, Cherokee representative)

Q Did you make a crop here in 1866? A Didn't make any crop I made a garden spot.

Q Where at? A Over on the Doctor Thompson's place, made a crop there in the spring of '67.

Q Where did you see Riley about roasting ear time? A At Spring Brogs house, at the meeting house.

Q Now, you are not a recognized citizen are you? A. I have been said to be, I have been voting just like the balance of them.

Q Your rights have been disputed? A Was disputed a long time ago, but the courts ordered it to be settled and it was settled.

Q You went down to Tahlequah before the Bob Daniels Court in 1871 and '72? A Yes sir, I went down there.

Q And they decided against you? A. Didn't decide anything; Bob Daniels asked me what you negroes come here for, and I told him what we was there fore and he told you negroes go home and go to work, we are doing business for the Indians and we went home the next day.

Q And your case was not passed upon? A No sir.

JIM ALBERTY, being duly sworn by Commissioner T. B. Needles, testified as follows: (Examination by Mr. Hellette)

Q What is your name? A. Jim Alberty.

Q Where do you live? A Saline District, eight miles east of Chouteau

Q How long have you lived in the Cherokee Nation? A. Well I guess I have been here 73 years to the best of my recollection, all the days of my life.

Q Were you a slave in the Indian Territory? A. Yes sir.

Q Who owned you? A. John Alberty.

Q Did you leave the Territory during the war? A. Yes sir.

Q Where did you go? A. Went south.

Q Where to? A. Down in the Chickasaw Nation.

Q When did you come back here to the Cherokee Nation? A. '56 before the treaty was made.

Q Do you know Moses Riley? A. Yes sir.

Q Did you know where he was in 1866? A Yes sir.

Q Where was he? A At his old home on Clem McNairs old place, his Master's place.

Q Do you know he was there? A. I went there and saw him there, and staid all night there.

Q Have you lived in the Cherokee Nation since you came here in 1866?

A Yes sir, ever since.

Q Own property here? A. Yes sir, I have got as good a farm as any man in this country.

Q Have you voted here? A. Yes sir.

Q How many times? A. Every time there was an election, the last time was when they killed this treaty

(By L. B. Bell)

- Q Jim, did you serve in the army during the war? A. Yes sir.
Q Whereabouts? A Right here about Fort Smith and around.
Q Were you at the siege of Vicksburg? A Yes sir, I was in it.
Q Well, what army were you in? A. You know when they called for a hundred thousand men.
Q On which side were you on? A. Northern side, of course.
Q Who were your officers; what was your regiment? A Fifty-seventh Colored.
Q Is it designated by States or anything of that sort or was it just 57th? A 57th Colored.
Q Where did you enlist? A. Right here at Little Rock.
Q When? A Oh, I can't tell, that was while the war was going on, I don't know.
Q How long did you serve? A. I served until peace was made and I run away and come back home here.
Q You just simply quit them? A Yes sir.
(By W. W. Hastings, Cherokee Representative)
Q Whom did you come back with, Jim? A By myself.
Q Where did you leave the army? A. At Fort Smith.
Q Whom were you staying with when you enlisted in the army? A I wasn't staying with anybody, just as soon as I run away from the south I went into the army and when peace was made and I found out I would not be killed I quit them cold and come here.
Q Who took you south? A John Alberty.
Q Who were along with you when you went south? A I don't know.
Q Who took you? A. One man by the name of, some name, Bob Baugh's wife, Old Warden, used to horse race.
Q Was he a white man? A Yes sir.
Q He took you to Red river? A. Took me to the Chickasaw Nation.
Q And you left him there? A. Yes sir.
Q And went to Little Rock? A. Yes sir, and enlisted.
Q You hadn't been in Little Rock long when you enlisted? A No, sir, long enough to enlist and pretty near ready to draw pay, and when they said the war was ended I didn't want to draw pay.
Q Are you in the roll of 1880? A. No sir, but I tell you the reason, I know I went there and presented myself and they would not put me on.

(By Mr. Mallette)

- Q You say you returned to the Cherokee Nation before the Treaty was adopted? A Yes sir. I was here and heard every item of the Treaty there was.
Q You heard the Treaty discussed? A Yes sir, and then went to Tailagush and heard it read but I can't tell you what it said.
(By L. B. Bell)
Q Are you acquainted with Riley Lindsay? A At Cherokee?
Q Yes? A Yes, I have saw him.
Q Did you ever see him before the war? A. If I did, I didn't know him.

=====

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J. O. Rossen.

Subscribed and sworn to before me this 13th day of May, 1901.

(SEAL)

(signed) M. D. Green, Notary Public

Continuation of the original application, commenced this the 11th day of May, 1901. Commission adjourned at noon of said date, and at one o'clock of said date, said hearing continued, as follows:

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. May, 11th 1901.

In the matter of the application of Moses Riley, for the enrollment of himself and one child as Cherokee Freedmen; SOPHIE BRYANT, being called and sworn as a witness on the part of the applicant, by Commissioner T. B. Needham, testified as follows:

(Examined By Mr. Mallette, of counsel for applicant:

Q What is your name? A. Sophie Bryant.
Q Where do you live? A. In Saline district
Q In the Cherokee Nation? A. Yes sir.
Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.
Q Are you on the authenticated roll? A Yes sir.
Q By what name? A. Sophie Vann.
(By Mr. Mallette) If it please the Commission, we would like to have the 1880 enrollment of this witness included in the record.

The 1880 authenticated roll of the Cherokee Nation examined and the name of the witness identified thereon as follows:
page 152, No 3048, Sophie Vann, Cooweescoowee district.

Q Were you absent from the Cherokee Nation during the war? A. Yes sir.
Q Where did you go? A To Kansas.
Q When did you return to the Cherokee Nation? A In 1863.
Q Do you know Moses Riley, the applicant herein? A Yes sir.
Q Do you know when he returned to the Cherokee Nation? A. Yes sir.
Q When? A In the fall of '63.
Q How do you know he returned then? A. He was along with me when I came-- his folks and him.
Q That was Moses's brothers and sisters, were they all there at that time--was Andrew Riley along? A Yes sir he was along.
Q Do you know Jess Riley? A Yes sir.
Q Was he along? A Yes sir.
Q Do you know Frank Riley? A Yes sir.
Q Was he along? A Yes sir.
Q Did you know all the brothers and sisters of Moses Riley? A. Yes sir.
Q Do you know Emma Riley? A. Yes sir.
Q When did she return? A. They all come in the fall of '66.
Q The same time you did? A Yes sir.
Q How about Fannie? A All came with the family.
Q And Delilah, where was she? A. She was along.
Q Lottie Riley or a Lottie Riley was along with the family.
Q Was Millie along at that time too? A Yes sir.
Q Where did they come-- to what part of the Cherokee Nation? A Come in Saline District and settled there.
Q Near what place? A McHair's.
(By W. W. Hastings, Cherokee attorney)
Q What was your father's name? A. Vann, so they say.
Q What was his first name? A. William.
Q What was your mother's name? A Catherine McHair.
Q Is your mother a sister of the father of Moses Riley? A. Yes sir.
Q You and these people you have named as being with you in the fall of '66 are first cousins? A Yes sir.
Q You afterwards married Gilbert Vann? A Yes sir.
Q Was a recognized citizen? A Yes sir.
Q And he enrolled you in 1880 didn't he? A Yes sir he enrolled me.

Q You don't know one year from another? A. Yes sir I do.
 Q You were quite small when you came back from Kansas? A. I was not grown, I was eleven past.
 Q How old are you now? A. 45 years old now.
 Q Who else came along back in that crowd? A A whole lot of folks.
 Q Did your father come with you? A. No sir he was dead.
 Q Did your mother come with you? A. No sir he was dead.
 Q You were raised up by these people were you not? A. Yes sir.
 Q You came with him and his family back to the Cherokee Nation from Kansas? A. Yes sir with my uncle.
 Q They told you that it was in 1856, you was a little girl then and did not know what year it was? A Yes sir I was a little girl then.
 Q Did you come in wagons? A Yes sir.
 Q How many wagons were there? A. I dont know, I never kept no track.
 Q Was there as many as five or six? A. Oh more than that.
 Q What other people except your family and your uncle's came through at the same time you did? A There was a whole lot of families, I dont know just who all, there was my uncles family, and Columbus Rogers family, and a whole lot of others, there was Brother Nacey Mayfield's family.
 Q What other families? A I dont remember how many families was there.
 Q Quite a number though? A Yes sir.
 Q As many as a dozen? A. More than that, I dont know though how many, I never paid no tention to such things then.
 Q Who was living on the old McNair place when you came there in '66? A Jack McNair was there.
 Q Was he a Cherokee? A Yes sir.
 Q Was his wife there? A. I dont know if it was his wife, but I know she was called Jane McNair, she was there.
 Q Did she afterwards marry Martin Thompson after McNair's death? A Yes sir, that's the one.
 Q You lived there how long on that place? A. I dont know how long we lived there, long enough to make a crop though and then settled on Pryor creek, I never kept no track of those things.
 Q Did you come in the spring of the year to the McNair place? A No sir in the fall of '66.
 Q Who told you that it was the fall of that year that you got there? A The family.
 Q You was a small child, eleven years old, and yet you remember them telling you that it was in the fall of '66 that you come here? A Yes sir I do.
 Q What year is this? A 1881.
 Q 1881? A No 1881 I mean to say.

By Mr. Hastings: " Comes now the Cherokee representatives and offer in testimony a part of the record as: " Minutes of Special Court of Commission, Supreme Court 1871 " of the Cherokee Nation, on page 62 of which is found: " Monday morning, June 5th 1871, court met, Chief Justice R. B. Daniels and Associate Justice Redbird Simmler present. There being no cases ready for trial, adjourn to 9 o'clock tomorrow morning. Tuesday morning, June 6th, 1871. " and on page 65 is found under said date: " Hose Hardrick and family. The Court decide from the evidence adduced that the defendants are not entitled to the rights of Cherokee citizenship under the Ninth Article of the Treaty of 1835. "

By Mr. Hollister: We desire to object to the introduction of the said record and testimony.
 By Mr. Hollister: Do you wish to give your reasons for objecting?
 By Mr. Hollister: No sir, we simply enter a general objection at this time to its introduction.

ALLEN LYNCH, called and sworn as a witness on the part of the applicant, testified as follows: (Examined by Mr. Mellette)

Q What is your name? A. Allen Lynch.

Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.

Q On what roll are you? A I guess I am on all of them.

Q Are you on the authenticated roll? A Yes sir.

Q Do you know Moses Riley? A. Yes sir.

Q Do you know where he was in any part of the year 1866? A 1866? Q Yes sir. A Well I will state to you where the old man was first; the old man came here in the spring of '66 and raised a crop on the old McNair place; he was our local preacher round there, and after a while he laid by his crop he went back to Kansas for his family; I don't know just exactly when he returned that time but it was in the fall.

Q Did he return that time with his family? A Yes sir.

Q Where were you living then? A. On Grand River on the Dr. Thompson place.

Q Do you know Andrew Riley? A. Yes sir.

Q Do you know his brother Moses? A Yes sir.

Q When did he return to the Indian Territory? A He came back with the old man.

Q He came back the same time as the old man did? A. Yes sir.

Q Did you see Jesse Riley there? A I never saw none but Moses and Andrew of the boys.

(By W. W. Hastings)

Q Where did you make a crop in 1866? A I didn't make any at all.

Q Where were you living in 1866? A On the Dr. Thompson place.

Q How far is the Dr. Thompson place from the McNair place? A. About fifteen miles.

Q Clem McNair and his wife Mrs. Cherokee McNair were there were they, on that place? A. I think it was the Jack McNair place; I know I was up there and saw old man Riley plowing there.

Q On that farm? A Yes sir.

Q When was that that you saw him plowing there on the McNair place-- what time of the year? A In the last of April.

Q Are you positive of that? A Yes sir, long about that time...

Q When did you actually see the other members of his family, of his and Moses? A In the winter after he had raised that crop.

Q Are you prepared to swear that you saw them all the following winter, or the winter of '66? A I am not positive as to all of them, I know the old man was here then.

(By Mr. Mellette)

Q In the year of 1866? A Yes sir.

COLUMBUS McNAIR, called and sworn as a witness on the part of the applicant, testified as follows:

(Examined by Mr. Mellette)

Q What is your name? A . Columbus McNair.

Q Where are you living? A. At Vinita.

Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.

Q On what roll are you? A. On the '80 roll.

Q Do you know Moses Riley? A. Yes sir.

Q Do you know where he was in the year 1866? A Over here on Grand river.

Q In the Cherokee Nation? A. Yes sir.

Q How do you know it? A. I was there

Q What time of 1866? A In November.

Q Do you know Andrew Riley? A. Yes sir.

Q Was he there? A. Yes sir.

Q Do you know Jesse Riley? A. Yes sir.

Q Was he there? A. Yes sir.

Q Do you know Frank Riley? A. Yes sir.

Q Was he there? A. Yes sir.

Q Do you know Jerry Riley? A. Yes sir.
Q Was he there? A. Yes sir.
Q Do you know Emma Riley? A. Yes sir.
Q Was she there? A. Yes sir.
Q Do you know Fannie Riley? A. Yes sir.
Q Was she there? A. Yes sir.
Q Do you know Delilah Riley? A. Yes sir.
Q Was she there? A. Yes sir.
Q Do you know Lettie Riley? A. Yes sir.
Q Was she there? A. Yes sir.
Q Do you know Millie Riley? A. Yes sir.
Q Was she there? A. Yes sir.
Q When did you come to the Cherokee Nation-- when did you return after the war? A. In '65.
(By W. W. Hastings)
Q What time in '65 did you come back? A In the spring of '66, I didn't come to my uncle's though until the fall.
Q What point in the Cherokee Nation did you come to first? A. To Webbers Falls and then to Fort Gibson.
Q Who did you live with in Webbers Falls? A. I didn't live with any one there.
Q Who did you stay with there? A. Coffee Sheppard.
Q How long did you stay with him? A. Just staid all night with him
Q Start to work there? A. No sir.
Q Just staid there all night? A. Yes sir.
Q And that was in the spring of '66? A Yes sir.
Q When you left there where did you go? A. On the river.
Q What river? A. Here on Grand river.
Q Near what place? A. The McNair place.
Q This old McNair place they have been testifying about? A Yes sir
Q About what time was that? A In May of '66.
Q Well you saw the father of this applicant there then did you? A. Yes sir, I saw them there, but the whole family didn't come back till in the fall.
Q Did he make a crop there? A. Yes sir.
Q He is your uncle is he? A. Yes sir.
Q And these applicants are your first cousins? A. Yes sir.
Q Was Mrs. McNair-- Mrs. Cherokee McNair there? A Yes sir in the fall.
Q If those other witnesses say that she was there in the spring, they are mistaken are they? A. Yes sir, she made arrangements with my uncle to take charge of the place.
Q You mean she made arrangements with him when he got there to take charge of the place? A No sir she was not there when he got there but she had sent word to him to take charge of the place when he got back.
Q She sent word to who? A To my uncle, Riley McNair.
Q Mrs. Cherokee McNair sent word to your uncle for him to come and take charge of that place? A Yes sir.
Q Where did she live at the time that she sent that word? A In the Choctaw Nation.
Q And your uncle was living in Kansas-- he came from Kansas down here didn't he? A Yes sir.
Q And he came there and made a crop on the McNair place that year? A Yes sir, in '66
Q And Mrs. Cherokee McNair who was living in the Choctaw Nation had made arrangements with your uncle who was living in Kansas to come there and take charge of the old place? A No sir she sent word up there to make arrangements and come through and take charge of the old place.
Q You staid there all that time did you, with your uncle while he was making a crop? A. No sir.

Q With what other people did you stay? A I staid at Grap Lynch and
 accepts, and then with Stephen and George Johnson.
 Q Where did you go that winter of '66? A I went up in Kansas.
 Q You know and say ~~that~~ positively that you uncle went back and
 brought his family to that place, including Moses McNair or Riley,
 in 1866? A Well I never saw him go up there and get them but when I
 came back there again they was all there.
 Q When did you come back the last time, the time you saw them all
 there? A In January, or 1867 just after Christmas.
 Q How long after Christmas? A Not very long.
 Q A month? A No sir.
 Q Three weeks? A No sir just a week or so.
 Q Was that the first time that you saw any of the family besides
 the old man? A No sir Moses was there all the time, but the old lady
 and the younger family wasn't there till I got back again.
 Q Then your uncle brought back part of his family with him when he
 came the first time in the spring? A Yes sir.
 Q How many of these boys did you see with their father when you came
 there the first time in the spring of '66? A Andrew, Moses, Jesse,
 and Jerry.
 Q That was four that were there with their father in the spring of
 '66? A Yes sir the rest come in the fall.
 Q You are positive of this are you? A Yes sir.
 Q That was in the spring of '66 that you saw these four boys with
 their father on the McNair place? A Yes sir.
 Q Their father was Riley McNair? A Yes sir.
 Q And you saw him and these four sons you have named on the McNair
 place during the months of April or May of the year 1866? A Yes sir
 and Moses went and helped get the family in the fall.
 Q Where was you when they went up to Kansas to get the balance of
 the family? A I was in Kansas.
 Q You was there in Kansas when Moses came up there to get the rest of
 his family? A Yes sir.
 Q Did Moses come in a wagon after his mother? A Yes sir.
 Q When he left his father and the rest of those four boys down there
 on the McNair place and went to Kansas to get his mother and the
 rest of the family did not? A Yes sir. I left them down there
 and I went to Kansas and went to work.
 Q Who did you work for in Kansas that time? A For a man named Lindsay.
 Q You were up there in Kansas then in the fall of that same year?
 A Yes sir.
 Q And then you come back here the next January? A Yes sir.
 Q How long did you stay here the time you passed through the first
 time? A Just a week or so.
 Q And then you went back up there where the mother of this family
 was? A Yes sir. in Kansas.
 Q And in the fall Moses Riley came up there? A Yes sir.
 Q And when you came back here the last time they was all here? A
 Yes sir.

WILLIAM FOREMAN, called and sworn by Commissioner T. B. Needles
 on the part of the applicant, testified as follows:
 (Examination by Mr. Hallett)

Q What is your name? A. William Foreman.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Are you recognized as such? A. Yes sir.
 Q As a citizen of the Cherokee Nation? A. Yes sir.
 Q Do you know Moses Riley? A. Yes sir.
 Q The applicant here for enrollment? A Yes sir.
 Q Where were you living in 1862? A In Saline district on Lynch's
 Prairie.
 Q Do you know where Moses Riley was in '66? A On the Old McNair
 place.
 Q In that district? A Saline.

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Q. To the Cherokee Nation? A. Yes sir.

Q. At what time do you think it was that you saw him in 1868? A. I saw him several times through the summer; I had a little store there and he came there and traded some.

Q. Do you know his father Riley McNair? A. He was there.

Q. When did you move from there? A. I moved from there the last of September or the first of October, I had sold out my store.

Q. Of what year? A. 1868.

(By W. W. Hastings)

Q. You were keeping a store there that year? A. Yes sir.

Q. Was Riley McNair's family there? A. I only saw these two, Moses and the old man.

Q. How far from the McNair place was your store? A. About six miles.

Q. About what time of the year did you first see them? A. I think it was in May, some time in the Spring; they came there and bought some groceries and things.

Q. You are sure you saw Moses there? A. Yes sir.

Q. And that was in the spring of '68? A. In May or April.

Q. You are positive that you saw Moses there with his father? A. Yes sir.

Q. Where were they living then? A. On the Olem McNair place.

Q. Did they make a crop there? A. They said they did, I didn't see the crop.

Q. Did Mrs. McNair live there then? The Cherokee Mrs. McNair? A. No sir.

Q. When did she move there? A. I don't know.

Q. That was the place they lived on—the one she owned? A. Yes sir.

Q. You seem to know more about the colored people of the Cherokee Nation than you do about the Cherokee people don't you? A. There were not many Cherokees there about that time, they had all gone out.

Q. You don't know when she got back? A. No sir.

Q. What are you doing now—what is your occupation? A. I told you that the other day.

Q. Well I want it in this case too? A. I am doing nothing just now, am sort of bumbling around.

Q. You testified for what is known as the Robinson case before the Kern Clifton Commission five years ago didn't you? A. Yes sir.

Q. How much did they give you to testify for them in that case? A. What has that to do with this case?

Q. I want an answer to this question, I am going to ask that question of you every time that you come here and testify.

Mr. Mellette: I desire to object to the question the attorney for the Cherokee Nation asks of this witness as to what he received for testifying in a case before the Kern Clifton Commission, on the ground that a witness cannot be impeached by proving a particular act or acts of that witness, but a witness must be impeached by showing that he makes contradictory statements, or by showing his general bad character for truth and veracity.

By Com'r Yaddles: We will let it go for what it is worth and your objection will be noted.

By Mr. W. W. Hastings: I would like to have an answer to that question? A. You want to know how much they gave me? A.

Q. Yes sir? A. They agreed to give me \$25.00 each.

Q. And there were five of them? A. Yes sir.

Q. That would make \$125.00 in all? A. Yes sir.

Q. Did any one else agree to pay you that time? A. Yes sir Andy Daniels.

Q. How much? A. \$25.00 for himself and wife.

Q. Did any one else? A. No sir, several promised me but never paid me.

Q. You took notes for people didn't you for testifying for them? A.

Yes sir I took notes from those I named.

Q. Have these people in this application here, agree or promised to give you anything? A. No sir.

By Mr. Mellette:

Q Did they give you this money as a bribe to testify falsely? A No sir.
Q Did you testify the truth? A I did.
Q Was the money received from them in payment of your time and expenses? A Yes sir.

(By W. W. Hastings.)

Q How long did it take to try the Robinson case? A I don't remember.
Q How long were you on the stand in that case? A I don't know.
Q All of them were consolidated as one case were they not? A Yes sir.

By Com'r Needles-- Moses Riley applies for the enrollment of himself and his child Lillie Riley as Cherokee freedmen; upon an examination of the authenticated roll of 1880 his name cannot be found thereon, but it is found on the Kern Clifton roll and the Wallace roll according to the page and number of the rolls as indicated in the testimony. The name of his child Lillie is also found on the Kern Clifton roll and is duly identified as the child of the applicant. The applicant is identified on the Kern Clifton roll as Moses McNair or Riley, and his child Lillie is found as Lillie McNair. They are both duly identified as the applicant and his child; they both make satisfactory proof as to residence, consequently the said Moses Riley and his child Lillie will be listed for enrollment as Cherokee Freedmen on what is known as a doubtful card to await the further consideration of the Commission. When the Commission arrives at a final conclusion in his case he will be notified by mail.

Chas. von Weise being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the continuation of the above application and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

(signed) Chas. von Weise.

Subscribed and sworn to before me this 14th of May, 1902 at
Vinita, I. T.

(signed) C. R. Breckinridge.

Commissioner.

I Chas. von Weise, upon my oath state that the above is a true and complete copy of the original.

Subscribed and sworn to before me this 24th of August, 1902.

Chas von Weise
[Signature]

Commissioner.

To be filed in the case of Andrew Riley O. R. D. # 260

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsoa, I. T. May 31st 1901.

Mellette & Smith for applicants:
W. W. Hastings for Cherokee Nation.

SUPPLEMENTAL TESTIMONY in the matter of the application of Moses Riley, O. R. D. #260.

MOSES RILEY, being sworn by Com'r Breckinridge, testified as follows: (By Commission)

Q What is your name? A. Moses Riley.

Q How old are you? A. 51.

Q What is your post office address? A. Chelsoa.

Q You have already applied for enrollment? A Yes sir.

(By Mr. Mellette)

Q Columbus McNair made a statement in your case at Vinita that you returned to Kansas in the fall of 1886 and brought your father's family to the Cherokee Nation in 1883, and that he was in Kansas when you brought them back? A He saw me in Kansas but not in that year.

Q When was it? A. '87, fall of that year.

Q What did you go up there for then? A. After my aunt.

Q Where was your aunt? A Working at a hotel at Garnett, Kansas.

Q Did you bring her back to the Territory? A Yes sir.

Q Had she been here before that herself? A. Yes sir.

Q Did you, or did you not go after your father's family? A I left them right on the McNair place cross in Salina district.

(By W. W. Hastings)

Q What was your aunt's name? A Mary Rogers or McNair.

Q You were present when Columbus made his statement in your case?

A No sir I was not in the tent.

Q How did you find out that he gave it in that way then? A. I saw it in Mr. Mellette's hands.

Q Did Mr. Mellette speak to you about the inconsistency of that statement? A No sir.

Q Did you talk with Columbus about it? A. He said that it was wrong himself, as soon as he came out of the tent he said that he had made a mistake.

Q Didn't you ask him to correct it? A No sir, I desired it should be corrected, but I did not tell him to do it for he said that he was going to his self.

Q Did I am ever tell you that he had done it? A. No sir he didn't.

(By Mr. Mellette)

Q Now when you went up to Kansas that time after your aunt, who went with you? A Jerry Butler, Jim McNair and Columbus Rogers.

JERRY BUTLER, called and sworn as a witness for the applicant by Com'r Breckinridge, testified as follows:

(By the Commission)

Q What is your name? A Jerry Butler.

Q How old are you? 45.

Q What is your post office? A Chouteau.

Q How long have you lived in the Cherokee Nation? A All my life except during the war.

(By W. W. Hastings)

Comes now the representatives of the Cherokee Nation and respectfully protest against the present witness testimony for the reasons that the purpose for which the witness is to be introduced has been explained by the attorney for the applicant, and which is to be, first, to make a correction of what one of his

own witnesses has testified, as he states, erroneously; and for the reason that the witness himself is present and should be called first and allowed to correct his own testimony; and second because it has been explained that additional testimony is desired to be given as to the time of the return of the applicant, after the case is closed on the part of the applicant, which will result in making the investigation interminable; and third, because this witness who is now desired to be introduced was present a number of days at Vinita where the application was made and was not at that time introduced; and fourth, after a case is closed it is not permissible to introduce additional testimony upon a point already inquired into.

(By Commissioner C. R. Breckinridge.)

The case is not as yet closed in a formal manner, and it is not, or has not been, the practice of the Commission in any of these cases to treat any of the cases as closed, down to this time. The Commission will not permit an abuse under the form of taking additional testimony, which would simply be a multiplication of testimony from the same source; but in frequent instances in conducting these cases it has been found advisable and proper to permit applicants and witnesses to correct their own testimony where they have alleged that they have made mistakes in certain particulars, and it is understood that in the present instant the purpose is to bring out certain circumstances which were not developed heretofore and which were calculated to produce an honest but erroneous impression as to facts. Therefore the examination will be permitted to proceed.

By Mr. Mellette: (of Jerry Butler.)

Q You say you are 43 years old? A Yes sir.

Q Are you a freedman citizen of the Cherokee Nation? A Yes sir.

Q Are you on the 1880 roll? A Yes sir.

Q Do you know the applicant, Mose Riley? A Yes sir.

Q Did you know Riley McNair, his father? A Yes sir.

Q Do you know where Riley McNair, and this applicant and the other members of the family were in 1866? A In the fall of 1866 my father and I was hauling corn from a place called the Dr. Thompson place of Bolin's Ferry and Uncle Riley McNair and Mose came through there and then in the summer of '67 me and Mose Riley and Columbus Rogers and Jim McNair all went back to Kansas after Columbus's wife who was Mose Riley's aunt.

Q Where did you find her in Kansas? A Found her in Garnett, Kansas working in a hotel called the Bowl's hotel.

Q In '67? A Yes sir.

Q Did you see Columbus McNair in '67? A Yes sir that was the first time that I saw him.

Q Going back to the fall of '66, you say you saw Riley McNair? A Yes sir there when we was hauling corn.

Q In the Cherokee Nation? A Yes sir.

Q Did you or did you not see any other members of his family in the fall of '66 in the Cherokee Nation? A We went up there in the winter it was late in the winter, fall or winter, and staid all night at Uncle Riley's.

Q Who was there then? A His wife and children and himself.

Q In what year was that? A In the fall or winter of '66, before we went back to Kansas.

(By W. W. Hastings.)

Q You say you are 43 years old? A Yes sir.

Q You were born then in 1858? A Yes sir.

Q You were 8 years old then in 1866? A Yes sir.

Q What relation are you to Mose Riley, the applicant? A Not a bit on earth.

Q What relation are you to his father? A Not a bit.
 Q You call him "Uncle Riley"? A Just like we all do, call the old people uncle.
 Q Were you at Vinita when Mose Riley made his application through the enrollment?
 Q You are sure you went to Garnett, Kansas? A In '66? A No sir in '67
 Q What sized place was Garnett? A Pretty good sized place.
 Q Was there a rail road there? A. No sir this M. K. & N. was at Ot-tawa; we went there to Ottawa after Columbus' mother and that was the first time that I ever saw a rail road - they was built on a little creek called Magazine.

COLUMBUS MCNAIR, called and sworn as a witness testified as follows: (By Mr. Mellette)

Q Have you given testimony in this matter heretofore? A Yes sir.
 Q Are you a freedman citizen of the Cherokee Nation? A. Yes sir.
 Q Are you on the roll of 1880? A Yes sir.
 Q You stated in your testimony heretofore in this case that in the fall of 1863 Mose Riley the applicant went back to Kansas to bring his mother and the rest of his family back to the Cherokee Nation, do you want to make any correction of that statement? A I went up in the spring of '66, left the Chickasaw Nation in March '66, first year after the war, and then went up through into Kansas and that fall Mose Riley and Jerry Butler came up there.
 Q Your former statement was correct then? A. Yes sir, that what I thought it was.
 Q Who came with Mose? A Jerry Butler.
 Q Who did he bring back with him? A I supposed he brought his mother back, but he says now that it was his aunt that he brought back.
 (By the Commission)
 Q Did you see him when he got back? A. No sir I waan't here then.
 Q Is his mother any kin to you? A To my first wife.
 (By Hastings)
 Q What relation are you to Riley McNair? A He is my uncle.
 Q Did you say anything in your first testimony at Vinita of Jerry Butler coming up to Kansas with Mose? A Yes sir I think so.
 Q Did you ever work for Work Thompson after that time? A. I dont know anything about work Thompson, I worked for Martin Thompson.
 Q Did you see Mose's mother when you went up to Kansas? A I didn't see his mother, I was at my sisters there about three miles from town and whoever Mose and then came after was in town.
 Q Is that all the family that you saw up there? A They was all down here but that one I guess.
 Q Are you sure that it was not '67 that you saw Mose come up there? No sir I think it was in '66.
 Q Did you see all these people here, Mose and Andrew and the others in the spring of '66 down here? A I think it was, but they says now it was in the fall.
 Q Are there any more corrections that you want to make? A. No sir.
 (By the Commission)
 Q You say you lived in the Chickasaw Nation until the spring of '66? A Yes sir in March.
 Q And did you then go right through the Cherokee Nation into Kansas? A Yes sir.
 Q You have that fixed definitely in your mind? A Yes sir, I went up right after the war.
 Q Did you see Moses Riley up there? A. Yes sir that is what I think, but they says now it was later than that.
 Q Who did you see in Kansas in the spring of '66? A I dont know who all.
 Q How long did you stay up there? A Along about-must have been Sep-tember or October when I got back.
 Q When was it you remember seeing Mose Riley up there in Kansas? A In the fall.

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Q Of '66? A Yes sir.

Q You didn't see him there in the spring of '66? A No.

Q But you did see him there in the fall? A. Yes sir.

Q Did he come up there when you were there? A. Yes sir.

Q Who did you see besides Mose in Kansas? A. Jerry Butler.

Q Any more of the Riley people? A No sir.

Q Any of the women of the family? A No sir.

Q Did you see Mose's mother? A No sir I didn't see them, I was three miles in the country, three miles from town with my sisters and they said they came up there after them.

Q After who? A I thought it was for Mose's mother but they said now that it was for his aunt instead of his mother.

Q You never did know of your own knowledge then who they came for? A No sir.

Q You are only testifying them of the people you actually saw up there and what they told you? A. Yes sir.

Q Did you go back to Kansas after that fall? A Yes sir.

Q When? A That winter.

Q When was it in the winter? A I can't tell you what time, I went back that winter and come back the next spring like as we'll collect I can't remember just what month it was.

Q How long did you remain when you come down in the fall of '66? A I didn't stay here more than two or three weeks.

Q And then went back to Kansas? A Yes sir.

Q To Garnett? A Yes sir.

Q When did you get back to Kansas after you came back from Garnett? A Sometime after Christmas anyway.

(By Hastings)

Q Do you mean to tell the Commission that you were up there from the spring of '66 and remained at Garnett all of '66 and within three miles of Garnett at your sisters and that you don't remember now of seeing Mose Riley's mother who was your aunt? A I said that when they came up there I was three miles from town and I was with my sister and I supposed that they came up after Mose Riley's mother but that they says now that they came up after his aunt.

Q And you say now that you don't remember seeing Mose Riley's mother in those 3 or 6 months up there? A No sir I didn't.

Q You are positive of that now? A Yes sir.

Q Do you know any of the folks that were living down here then? A. No sir I don't.

Q You testified that you came to the McNair place when you were going through from the Chickasaw Nation to Kansas in that spring of '66? A Yes sir.

Q Don't you know who you saw there in that spring of '66? A The first of the summer it was that I saw them in the Cherokee Nation.

Q That was not the way you testified when you were at Vinita was it? A I don't know what I testified at Vinita, I can't remember all they asked me there.

Q Didn't you say that you saw this family there in the spring when you were coming through? A I thought it was in the spring but they says now that it was in the fall.

Q You say you didn't work for Work Thompson? A No sir.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 25th of August, 1901

Chas. von Weise
Commissioner.

To be filed in the case of *Andrew Riley, et al* CTD- 260

SUPPLEMENTAL, D 258. in rebuttal.

Department of the Interior,
Commission to the Five Civilized Tribes,
Cherokee, I. T., May 31, 1901.

In the matter of the application of Moses Riley, et al, for enrollment as Cherokee Freedmen;
MARY J. THOMPSON, being sworn and examined by Commissioner Breckinridge, testified as follows:

Appearances:

Mellette, of Mellette & Smith, for applicants;
W. W. Hastings, Cherokee Representative.

Q Give me your name? A Mary J. Thompson.
Q How old are you? A 62.
Q What is your post-office? A Chelsea.
Q In what district do you live? A Cooweescoowee.
Q You desire to give testimony, I believe, in the Cherokee Freedman case of Moses Riley, and his daughter, Lillie, is that right?
A I don't know anything about his family; he was a young man when I knew him.
Q Is this the case you are here to give testimony in? A It is a Riley case.
Q I want to find out what case I am dealing with before I take testimony, it is in the Moses Riley case is it? A Must be.
Q How long have you lived in the Cherokee Nation? A Ever since the fall of 1866.

Examined by Cherokee Representative, W. W. Hastings:

Q What was your maiden name? A Hale.
Q When were you first married? A In '58.
Q To whom? A D. M. Brown.
Q You were married a second time were you? A Yes sir.
Q What was your second husband's name? A John M. McNair.
Q Was that your last husband? A No sir, Martin Thompson was my last husband.
Q Where were you during the Civil War? A In Texas.
Q Who did you return to the Cherokee Nation with? A J. M. McNair.
Q Do you know what his mother's name was? A Susianna McNair.
Q Where did you come to in the Cherokee Nation? A On the home place, three miles above the Orphan Asylum, Susianna McNair's place.
Q In what district was that? A In Saline District.
Q What time do you say you came there? A In the fall of '66, November.
Q Where did you live that winter? A Right there on that place, Grand River.
Q How long did you continue to live on that same place? A I lived there until '77.
Q Did you ever know a colored man by the name of Riley McNair?
A Yes sir.
Q When did you first see him? A It was in May, 1867.
Q Where did you see him? A He came to our place there, Mr. McNair place.
Q The place where you were living? A Yes sir.
Q Did you know where he came from? A He claimed to come from Kant.
Q Did he have his family with him? A He did not; he worked there for a while; he went back and got his family in '67; he came

in May '67 and went back in the fall and got his family.

Q Do you remember any of the members of that family? A I think there was one named Moses, and one Andrew as near as I remember, and it seems to me like there was a girl named Charlotte; there was about grown; and then there was smaller children, I don't remember, now, Mariah was his wife's name.

Q Was his wife Mariah or any of the members of his family with him when he first came in May '67? A No sir, he come by himself.

Q You know where he remained after May of '67 until he returned in the fall after his family? A He made a crop at our house, - worked there, cultivated a crop for us, and then was back in the fall and made another crop in the year '68, and then in the fall of '68 he moved to Pryor's Creek, and I don't know much about them since they moved away.

Q That was your husband's old home place? A Yes sir, that was his old home place.

Q Do you know where Riley McNair went after his family in the fall of '67? A He claimed to go to Kansas, I don't remember, somewhere near Fort Scott as well as I remember.

Examined by Attorney Mellette:

Q Mrs. Thompson, about how old were you at that time? A I guess 36 or 9, I disremember.

Q Hardly, if you are 62 now? A Well, you can count back.

Q That has been about 36 years ago? A Yes sir.

Q About 28 you mean? A Yes, that's it.

Q When were you married to Mr. Brown? A In '57.

Q Now was it '57 or '58? A '57.

Q Did you say awhile ago that it was '58? A No, I don't think I did.

Q What month were you married to Mr. Brown? A In November.

Q Where? A In Eastern Texas.

Q When did you go to Texas? A My parents moved to Texas when I was in my 16th year.

Q What year did they move to Texas? A In '54.

Q Do you remember that? A Yes sir.

Q You remember that it was '54? A Yes sir.

Q And what year did you come back from Texas? A We come back in '65, to Red River, and there we stayed a year and in the fall of '66 we come up here to the Cherokee Nation.

Q Your husband's mother was living with you on Red River in the Choctaw Nation in '65, Susianna McNair? A She died in Eastern Texas; she was dead, before we come to Red River.

Q Your husband then succeeded to the place there in Saline District, the old McNair place? A Yes sir.

Q He was owner of it at that time? A Yes sir.

Q And in '65 you lived in the Choctaw Nation on Red River? A Chickasaw Nation.

Q What time in '65 did you come to the Chickasaw Nation? A We come in the fall.

Q How long after the War closed? A Why, the war closed about along in April wasn't it, that spring, and that fall we come to the Chickasaw Nation, and next fall we come on up here.

Q Now did you know a colored man named Sophie Bryant? A No sir.

Q Did you know a colored man named Columbus McNair? A Yes sir.

Q When did you first see him there about the old McNair place? A He was down on Red River there, with Martin Thompson in '65,

and in the spring of '66 he left Martin Thompson and come up this way, and it was three years then before we heard anything more of him, and he come to our place here on Grand River.

Q You know that Columbus McNair left the Chickasaw Nation and said he was coming to the Cherokee Nation? A No, he didn't come to the Cherokee Nation; he claimed to be in those lower nations

Moses Riley et al sup 3

with John and Bert Thompson, who lives in Texas; he was a cow-boy he claimed to us, during those three years.

Q. You understand that Columbus McNair, who had been a slave on the same place that Riley McNair had been a slave didn't come to the Cherokee Nation until when? A. It must have been '68.

Q. Now as a matter of fact don't you know he came back in the spring of '66 to the old place there? A. No sir, not that I know of.

Q. You don't know that he did or he didn't? A. No; he left us there and we never heard of him any more for three years.

Q. Well then if he came to the old place and found this Riley McNair there, then you are mistaken about Wiley McNair not coming until the spring of 1867? A. No, it is the other way I guess; Lum must have stayed away until '69.

Q. Lum McNair stayed away until '69? A. Yes, I think it was towards the latter part of the summer he come to our place to visit us, and Riley was living right here on Pryor's Creek then.

Q. Where did Columbus McNair come from at that time? A. He claimed to come from a ranch below Fort Smith, in the Choctaw Nation, it seems to me.

Q. That was in '69? A. Yes sir. As near as I remember; and he only come up on a visit, and went back and I don't remember how long before he come again.

Q. You know a Cherokee Indian named William Foreman, who testified in this case for this applicant, old Bill Foreman; did you ever know him; had a little store there close to the McNair place in 1866, you remember his having a store there? A. No sir, I think I have seen the man, but I don't remember; he lived by the river above from where we lived.

Q. How far did he live from you? A. He lived on Lynch's Prairie? A. Yes sir, it was eight or ten miles from us.

Q. He lived there after you got there in '66? A. I don't know, I had been here several years it seems to me before I met him; I remember seeing him and remember the name.

Q. Now do you remember Mary McNair, that used to belong to Martin Thompson? A. She once belonged to Susianna McNair.

Q. Well you remember her? A. Yes sir.

Q. Where was she when you came back in '66? A. She came up here with Martin Thompson from the Chickasaw Nation.

Q. With Martin Thompson? A. Yes sir.

Q. Then she came back here in '66 with you and Martin Thompson? A. Yes sir, if it is the Mary I am thinking of.

Q. Well, it is the aunt of Moses Riley? A. Yes sir, she come back. Q. She came into this Nation; she had been Susianna McNair's

slave during the war? A. I think so, I was told that she was.

Q. And you brought her back in '66? A. No, Martin Thompson.

Q. Well, she came at the same time you did? A. Yes; she came at the same time we did, there was three families.

Q. And she came in the fall of '66? A. Yes sir.

Q. And she was never put on the 1880 roll? A. I don't know, she has been dead quite a while; at least I have been told it was, maybe it was her husband's name.

Q. Columbus Rogers? A. Yes sir. That was his name; it seems to me I have been told she died.

Q. How long did you live on that McNair place when you came from Texas? A. Until July, 1877.

Q. Then where did you move? A. To the Verligris country.

Q. Then you married to Mr. Thompson? A. We married in--- and I moved right out.

Q. You have been married three times, Brown, McNair and Thompson? A. Yes sir.

Q. You testified to these facts that you now testify to before the Karna-Clifton Commission didn't you? A. I guess I did; they had me at Claremore and here at Vinita.

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Q Didn't you testify before the Wallace Commission too?
A No sir, I don't think I did.

Com'r Breckinridge: This will be filed as additional testimony in Cherokee Freedmen doubtful cases 258, 260, 261, 262, 263, 265, 266, 267, 268, 269, 270 and 441.

Cherokee Representative W.W. Hastings: The Representatives of the Cherokee Nation desire to give notice that they will offer additional testimony on Monday, June 10th, 1901.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.
(signed) M. D. Green.

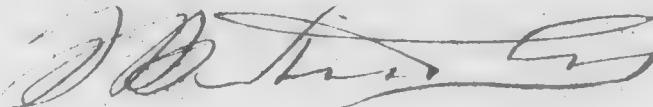
Subscribed and sworn to before me this June 1st, 1901.

(signed) T. B. Needles,
Commissioner.

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript

M. D. Green

Subscribed and sworn to before me this September 3rd, 1901.



Commissioner.

FD 260

F. D.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the with-
in notice on

by delivering a true copy thereof on the
..... day of A. D. 190...

Given under my hand this
day of A. D. 190...

.....
Marshal for the Cherokee Nation.

I, the undersigned attorney for the
within named applicant, hereby accept
service of the within notice on this the
..... day of 190...

Meelute S. Smith
Attorney for applicant.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } S. S.
NORTHERN DISTRICT.

I do solemnly swear that I delivered a
true copy of the within notice to

.....
on the day of A. D. 190...

Subscribed and sworn to before me
this

.....
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

4 1901

[Signature]
ACTING CHAIRMAN

NOTICE!

IN THE MATTER OF the application of Andrew Riley
for enrollment as Cherokee Freedmen:
Case No. F. D. 260
To Andrew Riley or to Mellette & Smith, his attorneys:

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita,
Indian Territory, on October 4th, 1901.. or from day
to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have
hereunto set our hands this the 3rd day of October, 1901.

L B Bell

W. W. Hastings

Attorneys for the Cherokee Nation.

Andrew Riley et al C.F.D. # 260

Department of the Interior,
Commission to the Five Civilized Tribes
Vinita, I. T. October, 4th 1901.

SUPPLEMENTAL TESTIMONY in the case of Mose Riley et al, C. F. D. #258.

Appearances:

W. W. Hastings attorney for the Cherokee Nation.
Mallette & Smith, attorneys for the applicants.

(Witnesses placed under the rule.)

R. M. MARTIN being first duly sworn by Commissioner T. B. Needles
testified as follows on the part of the Cherokee Nation:

(By Hastings)

Q What is your name? A R. M. Martin.

Q What is your age? A 54.

Q What is your post office address? A Pensacola, I. T.

Q Are you a Cherokee citizen by blood? A Yes sir.

Q What is your father's name? A Joseph L.

Q Where did you live before the war? A We lived in the Cherokee
Nation about 20 miles below here.

Q On this side or the other side of Grand river? A On the west side.

Q Did you know Jack McNair? A I did.

Q Did he own a farm before the war? A Yes sir.

Q Where was it? A On the east side of the river about 3 or 4 miles
from where we lived.

Q Was that McNair any relation to you? A Yes sir, first cousin.

Q Did you know a slave that belonged to the McNair's by the name of
Riley McNair? A Yes sir.

Q Did you know him before the war? A Yes sir, he belonged to us when
the war broke out.

Q Belonged to you? A Yes sir.

Q When did you come back to the Cherokee Nation after the war? A
November of '66.

Q Do you know when Riley McNair returned with his family to the
Cherokee Nation after the war? A Yes sir.

Q Tell the circumstances about it? A December '67 I was on the road
going to Kansas and we met them between Oswego and Chetopa and he
said he was going home.

Q Did you stop and talk with him? A Yes sir.

Q Did he have his family with him? A Yes sir.

Q What part of December of '67 was that? A Early part of December.

Q You say he had belonged to your father when the war broke out? A
Yes sir.

Q And you say you met him there in Kansas and had a talk with him as
he was going back to the Cherokee Nation? A Yes sir.

Q Did he say where he had been? A I don't know as he did.

Q You say you met him between Oswego and Chetopa Kansas? A Yes sir,
between the two places, I don't know just the place, but between
those two towns somewhere.

(By Mr. Mallette)

Q When did you come back to the Cherokee Nation? A November '66.

Q How can you remember that? A I don't know—just because I remember

Did you have anything to impress it on your memory as to when you
came back? A I don't know as I did, we had it in a book set down.

Q What did you set it down for? I don't know, my father set it down,
you will have to ask him.

Q What did he set it down for? A I don't know.

Q You didn't have to put that down did you for any purpose? A No sir,
I never put, but he always kept track of things.

- Q Did he set down when he left the Nation? A Yes sir.
- Q Where is that book? A I don't know where it is now.
- Q Are you testifying about what you recollect or what you saw in the book? A What I recollect.
- Q Not by the book then? A No sir.
- Q You remember positively that you come back in '66? A Yes sir.
- Q There was no particular reason for remembering that year '66 was there? A Yes sir.
- Q What was it? A Everything that happened made me remember it.
- Q You were young at that time? A Yes sir.
- Q Where did you land when you came back? A Place called Greenbriar.
- Q How old were you? A I was born in '47
- Q Can you remember about how old you were in '66? A 19.
- Q Where did you locate when you first come back? A Greenbriar.
- Q You went up in Kansas when? A The next year, '67.
- Q And then you met Riley McNair? A Yes sir.
- Q What kind of a team did he have? A Pony team, I think, not certain about that.
- Q What kind of a wagon did he have? A Four wheeled wagon.
- Q You remember that do you? A Yes sir.
- Q Now, he didn't have a Texas dump card with two wheels? A I don't think he did.
- Q Do you know he didn't? A He might have had one in his wagon.
- Q You know that he was not driving a Texas dump cart with two wheels and that he did not have a four wheel wagon with him? A I didn't see any two wheel wagon.
- Q Who was with him? A He said he had his family with him.
- Q Any one else? A I don't recollect.
- Q You remember of no one else being along? A There might have been some one else along.
- Q Why don't you remember? A There was people along.
- Q Who was along? A His wife and children I suppose that is what he said.
- Q How many children? A I didn't count them.
- Q How many wagons? A Only one as I remember.
- Q Do you remember what children were along? A No sir I don't
- Q Were they men or women? A Children.
- Q Whose children? A I don't know except that he said they were his family.
- Q They were all small children were they? A I don't know as they were all small.
- Q Did he have any children before the war? A Yes sir.
- Q Who? A Mose and two or three others.
- Q Do you remember them? A No I don't remember them as good as my own brothers and sisters.
- Q I don't expect you to remember them that well, but do you remember them at all? A Yes sir, but I can't swear to any particular children he had along, only he said he had his family.
- Q It was in December of '67 was it? A As well as I recollect.
- Q How do you recollect it? A It was getting pretty cold.
- Q Is that why you say December? A Might have been in November.
- Q Then you don't remember when it was, positively, at all? A I don't know the date exactly.
- Q When did you come back from Kansas after that? A We was gone I guess a couple of weeks after that.
- Q Where did you go? A Garnett.
- Q How did you happen to go there? A Drove some cattle up there.
- Q You were driving cattle at the time were you? A Yes sir.
- Q Why was Riley McNair's master just before the war? A I told you once he belonged to my father; he had him in possession; he did belong to my aunt, Mrs. McNair and father owned him after that.
- Q What place did Riley McNair live on at the breaking out of the war?

A I don't know, my father had two or three places.
 Q You don't mean to say your father owned Riley McNair at the breaking out of the war? A Yes sir.
 Q What was your father's name? A Joe L. Martin.
 Q Was he a Cherokee citizen? A Yes sir.
 Q What relation is Susanna McNair to you? A My aunt.
 Q Do you know a fellow named Jerry Butler? A Not very well.
 Q Was he along with Riley McNair when you met him? A I don't remember.
 Q Why don't you remember that? A I guess because he wasn't along.
 Q Do you know this man here? (pointing) A I take it to be Hose Riley.
 Q Was he along when you met them up there? A I can't swear that.
 Q He was about as old as you were wasn't he? A How old is he?
 Q About 51. A He might have been along.
 Q I would like to have you state to the best of your recollection, to the best of your judgment as to whether he was along or not, he is the applicant here now for enrollment, and I would like to know if he was along? A I don't remember if he was or not.
 Q What place did they locate on when they came back here? A I don't know as I know for certain, the first place I saw them was owned by Pete Conche's.
 Q How long after that did you see them on Pete Conche's place? A A good while, when I come up there it must have been in '69 or '70.
 Q Is it not a fact that Susanna McNair owned Riley McNair at the breaking out of the war? A She was dead as long before the war broke out.
 Q Now don't you know that Susanna McNair owned Riley McNair at the breaking out of the war, and that she died in Texas after the war? A I don't recollect about that, anyway Riley McNair was with us when the war broke out, and we had had him for several years.
 Q You say Susanna McNair died before the war? A I don't remember.
 Q What made you say then that she died long before the war? A Well I don't remember when she did die, but I don't know about that, but I know about Riley, I can prove by other people that we owned him and that when the war broke out he was living with us.
 (By Hastings)
 Q Mr. Martin, you said that when you met Riley McNair he had some children along, but that you don't know who they were? A Yes sir he said he had his family along and was moving back home.

CHARLES GLASS, being first duly sworn by Commissioner T. B. Needles, testified as follows on the part of the Cherokee Nation through Simon R. Walkingstick as interpreter:

(By Hastings)
 Q What is your name? A Charles Glass.
 Q Are you a Cherokee? A Yes sir.
 Q Was you in the war? A Yes sir.
 Q Where were you mustered out? A At Fort Gibson.
 Q When? A In the year 1865.
 Q Where did you come to after you were mustered out? A I moved out in Saline district near a man named Howell.
 Q How far was that from the old Jack McNair place? (No response)
 Q Did you live in Saline District in '65? A I think I had crossed the river then.
 Q In '65, the same year that you were discharged? A Oh, I was living in Saline then.
 Q How far from the McNair place? A About 70 yards.
 Q When did you move away from there? A I didn't stay there but a little while.
 Q Was it that year or the next year that you moved from there? A That year

Q Where did you move to then and how long did you stay there? A To Joe Martin's.
 Q How far was that from the old McNair place? A About two miles.
 Q Where did you live in '66? A At this Joe Martin's place.
 Q Was you ever about the McNair place in that year? A Yes sir I would go there frequently.
 Q Did you see any darkies making a crop on the McNair place in '66?
 A No sir I didn't see any.
 (By Mellette)
 Q Could you see good in 1866? A Yes sir I could see good then.
 Q Can you talk English? A No sir.
 Q Can you read? A No sir.
 Q How old are you? A 79 years old, I think.
 Q Did you live in a house when you were within 70 yards of the Jack McNair place in '65? A Yes sir.
 Q Whose house was it? A Me and my family were keeping house.
 Q Whose house was it? A Why it belonged to a man named Owl.
 Q Is it not a fact that Owl's house was a mile and a half from the Jack McNair place? A Yes sir this Joe Martin place was about a mile and a half from there.
 Q Ask him if the Owl house is not a mile and a half from the Jack McNair place? A No sir.
 Q How far is it? A About 70 yards.

W. B. RIDER, being first duly sworn by Commissioner T. B. Needles, testified as follows:() On the part of the Cherokee Nation)

(By Hastings)

Q What is your name? A W. B. Rider.
 Q What is your age, Mr. Rider? A 54 years old.
 Q Are you a Cherokee citizen by blood? A Yes sir.
 Q Where do you live? A In the Territory, on Pryor Creek, seven miles south of Chelsea.
 Q When did you begin to live there after the war? A I went there in the spring of '67.
 Q Did you, at any time, either before or after the war, know a colored man named Riley McNair who had some sons, Mose, and Andrew Riley and others? A Yes sir I knew him.
 Q Do you know when they located there on Pryor creek? A Yes sir to the best of my recollection they located there in the fall of '68.
 Q Where have you continued to live since the spring of '67? A Right on the same place I first settled on.
 Q How far did they locate from you? A On a tract of land, it is four or five miles from me.
 Q Was the country thickly settled at that time? A No sir.
 Q Is it prairie or timber? A Timber and prairie both, there is timbered hills running through.
 Q Is the country generally timber or prairie there? A South east it is more prairie than timber.
 Q Do you know whether Riley McNair or any of his sons were arrested after that or not? A Yes sir.
 Q Do you know what they were charged with? A Hog stealing.
 Q From whom? A My brother Alex Rider.
 Q Is he a Cherokee citizen? A Yes sir.
 Q Were you at the trial? A No sir but I went with the Sheriff and helped arrest them, I wasn't at the trial.
 Q Cherokee Sheriff? A Yes sir.
 Q About when was this? A I think this was in '71 that they were arrested.
 (By Mellette)
 Q Wasm't it in the spring of '68 that they located on Pryor creek instead of the fall? A No sir I think not.

Q Are you certain that it was in the fall instead of the spring of that year? A Yes sir.

Q How far is that from what is known as the Old Jack McNair place?
A Somewhere between 18 or 20 miles.

EDWARD BYRD, being called and having been first duly sworn by Commissioner T. B. Needles, testified as follows on the part of the Cherokee Nation:

(By Hastings)

Q What is your name? A Edward Byrd.

Q What is your age? A I am 57 years old.

Q What is your post office address? A Chelsea, Cherokee Nation, Indian Territory.

Q Are you a citizen of the Cherokee Nation? A By marriage, yes sir.

Q When did you first move to the Cherokee Nation? A I come to the Cherokee Nation in June or July of 1868.

Q Where did you locate? A On Pryor creek.

Q How far from the town of Pryor Creek? A I presume it was 10 or 12 miles up the creek, I think.

Q Did you afterwards know a colored man by the name of Riley McNair who had some sons, Mose, Andrew and others? A Yes sir.

Q When did you first know him? A I first knew him in the fall of '68 is my recollection.

Q Where was he? A He moved there on Pryor creek, I think he came from Grand river over there; he claimed he did.

Q What time did he move there? A Some time in the fall of '68.

Q Was he living on Pryor creek when you moved there? A No sir, I knew every one around there and he was not there.

Q How far did he locate from you at that time? A I presume a mile-- about a mile.

Q Mr. Byrd, were you ever in attendance upon a Cherokee Court at a time when Riley McNair and one of his sons was arraigned? A Yes sir I was a witness in that case.

Q Do you know what they were charged with? A Larceny.

Q Stealing from whom? A Alex Rider.

Q Do you know what was done-- -- did they go to trial?

(By Mellette)

" I object to everything that is of record or ought to be of record in that case; if they were tried and convicted or tried and acquitted, the record is the very best evidence and they must show it by the record."

(By Hastings)

" I will state to the Court that ordinarily the position of Mr. Mellett is correct, but in this case I have made search for the records and there are no records, as no records of these early proceedings of the Court were made, and this is the best evidence there is."

(By Mr. Mellette)

" That does not obviate the the necessity of the rule; if the record was destroyed by fire then this would be admissible, but first it must be shown that they were so destroyed. This was a court of record and they cannot prove its proceedings orally unless they first show that the records have been destroyed."

(By the Commission)

" No there is no testimony here to show that the records were lost or that they were ever made "

(By Hastings)

" This witness is now upon the stand and the counsel for the Cherokee Nation offer this testimony in and say to the Commission that unless they establish that there is no record, that they do not desire that this oral testimony be considered, and that makes this testimony admissible."

(By the Commission)

" Note the objection and let the witness proceed and it will go for what it is worth. "

(By Hastings of witness)

Q Did you go to the trial? A Yes sir.

Q Did they examine any witnesses? A No sir, I wasn't examined

Q What was done with the case? A They proved there that they were not citizens of the Cherokee Nation.

(By Mellette)

Q Did you hear the evidence? A I was in the room when they were proving it.

Q Were you sworn as a witness? A I was summoned as a witness is all.

By Mr. Mellette:

" I desire again to make a formal objection to the testimony here given that they proved that they were not Cherokee Citizens "

(By the Commission)

" I don't think it is proper testimony.

(By Hastings) (of witness)

Q What was done with the case? A They proved that they wasn't citizens of the Cherokee Nation before the Court and the case was thrown out for want of jurisdiction and consequently I wasn't sworn to testify in the case.

(By Mr. Mellette)

Q Now Mr. Byrd, they proved that first did they, before the case had been proved against them; the defendants introduced their testimony before the Government had proved their guilt? A Yes sir.

Q Did you ever in your life hear of any other case being tried in that way? A I don't know as I did.

Q Did you ever hear of a case being tried by the defendant introducing their testimony before the Cherokee Nation had introduced its testimony to show them guilty? (No response)

Q You were summoned as a witness for the Cherokee Nation? A Yes sir

Q You were not put on the stand? A No sir.

Q Were any witnesses for the Cherokee Nation put on the stand? A I don't know.

Q Then there was no trial? A Only that they introduced witnesses to show that they were not citizens.

Q Did they have any jury? A I think it was summoned there.

Q Did they empanel the jury? A I think they did.

Q Did the jury go out and decide the case? A No sir I don't think they did.

Q How did they get rid of the case? A The judge throwed it out, I think Charles Rogers was judge.

Q Is it not a fact that the jury went out and decided the case? A I don't think it did.

Q The jury was empanelled you say? A It was summoned and in the seats.

Q Who gave the evidence? A I don't know.

Q Did they examine witnesses for the defence? A Yes sir, I think their attorney was Joel Mayes.

Q The Cherokee Nation didn't introduce any witnesses? A No sir I don't think they did.

Q What did the defendants introduce any evidence to prove want of jurisdiction when the Cherokee Nation had not yet proven them guilty?

(By Hastings)

" The Cherokee Nation objects to that question because it is purely argumentative and because it calls for an opinion of the witness "

(By Mellette of witness)

Q Is it not a fact that you were not present at that time at all?

A No sir.

Q Is it not a fact that you were sick in bed at the time ? A No sir

I went there.

Q You swear that you were at the time they were tried for stealing hogs from Alex Rider? A Yes sir.

Q And that before any proof was introduced against these man they showed that they were not citizens of the Cherokee Nation? A That is my recollection.

Q And do you consider your recollection as correct? A Yes sir.

(By Hastings)

Q Good enough to swear to? A Yes sir.

LEWIS WOLF being called and sworn by Commissioner T. B. Needles testified as follows on the part of the Cherokee Nation through Simon R. Walkingstick as interpreter.

(By Hastings)

Q What is your name? A Lewis Wolf.

Q How old are you? A Something near 40 about 48.

Q Are you a Cherokee citizen by blood? A Yes sir I am a full blood

Q Where do you live? A I live in Cooweescoowee district.

Q How long have you lived in Cooweescoowee district? A I think I came here in '88 or '89 somewhere along there

Q Did you ever know a colored man named Riley McNair, father of Mose and Andrew Riley? A Yes sir I knew him, he had been a slave of Dr. Mc Nair.

Q Was he ever at court in Cooweescoowee district where he was brought up for trial? A Yes sir.

Q Were you summoned there in any capacity? A Yes sir as a jury man.

Q Who was the judge? A Chaires Rogers

Q What was done with the case? A Just turned him loose.

Q Do you know why? A He proved that he wasn't a citizen of the Cherokee Nation, that he had returned too late to entitle him to citizenship.

Q They were not tried? A No sir.

(By Mellette)

" I enter the same formal objection and ask that this testimony be stricken out"

(By Mellette of witness)

Q Who proved that? A I can't state as to who proved these facts as I was outside ; I had been ~~selected~~ summoned but not selected on the panel to try the case.

Q You didn't hear the trial did you? A I was on the outside; as soon as the jury was selected I stepped out, I was left out and had no business there.

Q Then you don't know what occurred inside of the court house do you? A Yes sir I know they turned them loose, that is about all I know.

Q All you know is that they were turned loose and left the courthouse? A Yes sir.

Q What year was that? A I am not able to state the exact date but I think it was in 1873.

Q Were you not too young to be a jurymen at that time? A I think I was old enough; I had been summoned as a jurymen anyway.

Q Did the jury go out in a room and decide the case? A No sir.

Q How do you know? A I saw him go in and then I saw him leave.

Q Saw who? A This man Riley McNair, colored man.

Q That is all you know about it? A That is all.

Q You dont know how they happened to be turned loose? A I didn't hear the proceedings in the court room but it was said by everyone there that he was turned loose because the court has no jurisdiction over him.

By Norr's Needles:

-8-

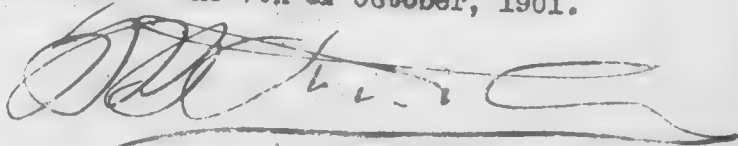
This will be filed in the following cases: Cherokee Freedman D. 251, D. 260, D. 261, D. 262, D. 263, D. 265, D. 266, D. 267, D. 268, D. 269, D. 270, D. 271, D. 441, D. 704, D. 595, D. 596, D. 651, D. 569 and D. 429.

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Chas. von Weise, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the testimony and proceedings in the above cause, and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 7th of October, 1901.



Commissioner.

F. D. 258.

File with Cherokee Freedman D-260, Andrew Riley et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 19, 1902.

In the matter of the application of Moses Riley for the enrollment of himself and child as Cherokee Freedmen.

SUPPLEMENTAL TO D-258.

APPEARANCES:

Mellette & Smith for applicants.
W. W. Hastings for Cherokee Nation.

J. M. JOHNSON, being first duly sworn, testified as follows:

- MR. HASTINGS: What is your name? A J. M. Johnson.
- Q What is your postoffice? A Garnett, Kansas.
- Q What is your age? A 50 years old.
- Q How long have you been a resident of Garnett, Kansas? A Since August 15, 1859.
- Q Were you living there for a few years after the war? A Yes, sir, I have lived there ever since '59.
- Q Did you know a colored man up there by the name of Riley McNair? A I did, yes, sir.
- Q Did you know any of his family? A I knew the boys, all of the boys, and the old gentleman.
- Q What were some of the boys' names? A The oldest was Mose, and they was Andrew, Frank, Jess, and Jerry.
- Q You know whether he had any girls or not? A He did.
- Q Did you remember her name? A I couldn't tell you their names only just the one that married first.
- Q Well did one marry? A Yes, sir.
- Q Who did she marry? A She married a man by the name of James Curls.
- Q She marry there in Kansas? A She did.
- Q How far did they live from you? A They lived about two miles and a half.
- Q Now how long did you continue to know them up there in Kansas after the war? A I knew them from the time that they came there in '64 until they left Kansas.
- Q When did they leave Kansas? A Old man McNair left in the spring of '67 and the family left in the fall of '67.
- MR. SMITH: What time, what month in the year of '67 did the old man leave? A I couldn't tell you; it was sometime along about March, it was after they had prepared to plant their crop there in the spring of '67.
- Q What sort of a crop were they preparing to plant? A Corn.
- Q When did they prepare ground for corn in that community at that time? A March.
- Q Ever any earlier or later than that? A Some of them might have been later, and some of them earlier.
- Q Some earlier and some later? A Yes, sir.
- Q So you have no definite recollection as to the month the old man left? A No, sir, I couldn't tell you any further than it was along about the first of March.
- Q Might have been sometime in February, as to the exact date? A It might have been the latter part of February, but I don't think that it was.
- Q Well why don't you think so? A Because the time they prepared to begin their spring plowing for corn.
- Q Well how much did he plow? A There was about fifteen or twenty acres about as much as any of them had at that time.

Q Well now do you know that just because that was the custom or do you know what he plowed? A I don't know what amount of land he plowed.

Q Well when did you first know the old man, where did you first see him? A When he first came to the county in '64, I think that was about the time all of those people came up from this part of the country.

Q Well now are you testifying as to the distinct recollection of when he came or upon your recollection of when a lot of people came there? A Upon his coming.

Q You remember his coming? A Yes, sir.

Q Without any reference to anybody else? A No, sir, not in particular.

Q How old was the one you called Hose at that time? A Well, I suppose he was about fourteen or fifteen years old.

Q Which was the next oldest to Hose? A I don't know.

Q Now what makes you think it was in '67 that he left there? A From the events and the dates of things that occurred at that time.

Q Well what occurred? A The time that the mill was moved from off the creek there where they were located.

Q Which was the first the old man's going out of the moving of the mill? A The oldman's going out.

Q How much? A He went out the spring before the mill was moved in '68, just a year before the mill was moved from there.

Q Whose mill was it? A Stewart's.

Q Stewart's mill? A Yes, sir.

Q Where is that mill now? A It was moved from Garnett to Erie.

Q How long ago? A It was moved in '68.

Q Well is it up there in Erie yet? A Sir?

Q Where is it now? A I couldn't tell you.

Q What did you have to do with the moving of the mill? A Nothing at all, sir.

Q Well what fixes it in your recollection that the mill was moved in '68? A Well a relative of mine that was working in connection with the mill at the time.

Q Well in what was does that fix it in your mind? A The place that they resided and the time that they took up their residence where those colored people moved from.

Q Well now that's been how long ago, now, since it was moved? A Sir?

Q It's been thirty years ago, hasn't it? A Over 30.

Q Well have you ever had occasion to think about when they left there until now? A Not until my attention was called to it, not to fix the time.

Q When was your attention called to it? A Last week.

Q Well did you know when your attention was called to it when they left? A Not till I had refreshed my memory and fixed the date.

Q How did you refresh your memory? A By the time that that mill was moved and things that occurred at that time.

Q Well how did you find out the mill was moved in '68? A From the records.

Q Did they keep a record of moving mills? A I keep a record of the real-estate when it changes hands.

Q You are a real-estate man? A Yes, sir.

Q What sort of a record was it that they had of moving the mill? A The land the mill was situated on was sold to other parties.

Q So when you were interrogated upon the subject you went to look at the record to see when the mill was sold; to see what date that mill was moved? A Yes, sir.

Q How did that help you to remember the time that the old man McNair left there? A The parties that left moved from the mill, over where the mill there was, over to the place that McNair moved from, relative of mine.

Q Well that would assist you to remember that the mill was moved after Riley left there? A Yes, sir.

Q Well how did it assist you in knowing how long after? A Because I know that he left there the year before the mill was moved.

Q How did you know that? A From dates I know that he moved and left there the year before the mill was moved.

Q Well how do you know that it was just a year? A Because the time that I associate with this, and business transactions with those people.

Q Well there was no connection between Riley's going from there or about the mill's being moved; one didn't have anything to do with the other? A Nothing but Riley's folks worked there at the mill.

Q That was all the connection there was between those two facts? A Yes, sir.

Q Well your attention hadn't been called for some thirty-five years to this proposition, had it? A No occasion for it.

Q Well now did you remember of your independent recollection that Riley all this time--that Riley had left there just a year before--p McNair--just a year before the mill was moved? A Yes, sir, I know that he moved away from there the year before the mill was moved.

Q Might it not have been two years before the mill was moved? A Couldn't have been.

Q Or three? A No, sir.

Q Well now how did you happen to keep that in your mind all this thirty-five years, that Riley went away from there; he was just a colored man, wasn't he, that lived in the country? A Plenty of them, yes, sir.

Q And he went away from there? A Yes, sir.

Q And a while after that a mill was moved? A Yes, sir.

Q Well now how did you keep those two dates associated together, that one was a year before the other, all this time? A Just the same as I would any other occurrence.

Q Who else went away from there a year before that mill was moved? A None of them colored people that I knew of unless it was this son-in-law of Riley's, married that girl.

Q He went away from there a year after the mill was moved? A Well there was some of the Bean's.

Q Just one year afterwards? A Yes, sir;--No, the same year, they went the same year that McNair did. Sandy Bean moved the same year that McNair did.

Q Well now, Mr. Johnson, that's the best of your recollection at this time--that it was a year after Riley went that the mill was moved? A Yes, sir.

Q Can you swear positively? A Well I think so, yes, sir.

Q You think you can? A Yes, sir.

Q Still you may be mistaken about its not being more than a year from the time Riley left until-- A Can't be mistaken.

Q Couldn't be mistaken? A No, sir, because I know when these people moved into the buildings that Riley moved out of and I know when he moved out and when they moved in.

Q Well when who moved in? A An uncle of mine.

Q What was his name? A Spriggs, James Spriggs.

Q Where is he living? A He is living in Barber County, Kansas.

Q Well now then, old man Riley left, he went off somewhere, of course you don't know of your own personal knowledge where he went? A No, sir, I don't know.

Q And in the same year that he left his family followed him? A Yes, sir, and the boys.

Q These boys that you mentioned? A Yes, sir.

Q And the daughter who married Curis? A I think that he left there.

Q You say the oldest one of those children was about fourteen or fifteen years old? A I think so, about my age.

COMMISSION: This testimony will be filed with and made a part of the record in the following freedmen cases: Ophelia Thompson et al, D-271, Riley Curls et al, D-270, Julius Curls, D-269, Lottie Johnson, D-268, Delilah Johnson et al, D-267, Fannie Scott et al, D-266, Jerry Riley et al, D-263, Frank Riley et al, D-262, Jesse Riley et al, D-261, Andrew Riley et al, D-260, Elizabeth Melton et al, D-441, Carrie Gibson, D-704, and Moses Riley et al, D-258, the latter being the case at Bar. It appears from the records of this Commission that all of the above applicants are represented by Mellette & Smith, who were present at the hearing.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full the testimony and proceedings in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Arthur G. Croninger.

Subscribed and sworn to before me this 23rd day of May, 1902.

P. G. Reuter,
Notary Public.

The undersigned, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and the same is a true and complete copy of the original.

Roy Palmer

Subscribed and sworn to before me this 16th day of August, 1902.

B. Jones
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitaire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 493, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Andrew Riley, D 260;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decrees already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings had in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL)

(Signed) P. G. Reuter,
Notary Public.

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lattie Ridge, et al., as Cherokee Freedmen, consolidating the ap-
plications of:

Katie Ridge,	Cherokee Freedmen	D 295
Cornelius Ridge, et al.,	" "	D 586
Phoebe Johnson, et al.,	" "	D 589
Henry C. Ridge,	" "	D 636
Ida Jones, et al.,	" "	D 647
Ary Lynch,	" "	R 70
Elmira Vann,	" "	R 113
Maud Riley, et al.,	" "	D 591
Rosa Vann, et al.,	" "	D 594
William Townsend,	" "	D 636
Melissa Townsend, et al.,	" "	D 651.
Dennis Hicks, Jr., et al.,	" "	D 355
Joshua Holt, et al.,	" "	D 344
Callie Miller,	" "	D 646
Mary Johnson,	" "	D 864
Ruth Vann, et al.,	" "	D 666
Frank Johnson, et al.,	" "	D 875
Eliza Hawkins, et al.,	" "	D 350
Joseph Hicks, et al.,	" "	D 360
Lattie Hicks,	" "	D 361
James A. Hicks,	" "	D 362
Francis Johnson, et al.,	" "	D 676
Anna Tutler, et al.,	" "	D 979
Howard Bushyhead,	" "	D 980
Lattie Davis,	" "	D 953
Roses Riley, et al.,	" "	D 258
Andrew Riley, et al.,	" "	D 260
Jesse Riley, et al.,	" "	D 261
Frank Riley, et al.,	" "	D 262
Jerry Riley, et al.,	" "	D 263
Fannie Scott, et al.,	" "	D 266
Delilah Johnson, et al.,	" "	D 267
Lottie Johnson, et al.,	" "	D 260
Jane Riley,	" "	D 600
Daniel Thompson,	" "	D 606
Elick Ward, et al.,	" "	D 623
Sandy Thompson,	" "	D 693

Ruth Riley, et al.,	Cherokee Freedmen D 579
Hannah Riley,	" " D 539
Charles Landrum,	" " D 601
Bettie McIntosh,	" " D 903
William Riley,	" " D 603
Carrie Gibson,	" " D 704
Cora J. Wagoner, et al.,	" " D 570
Arthur Riley,	" " D 571
Elizabeth Melton, et al.,	" " D 441
Julius Curls,	" " D 269
Riley Curls, et al.,	" " D 270
Ophelia Thompson, et al.,	" " D 271.

DECISION.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Katie Ridge for herself; by Cornelius Ridge for himself and wife, Laura Ridge (by intermarriage), and minor children, Pearl, Jesse and Myrtle Ridge; by Phoebe (Milton) Johnson for herself and minor children, Joseph, Percy, Herbert, Serena and Pearl Milton; by Henry C. Ridge for himself; by Ida Jones for herself and minor children, Lee, Eddie and Stella Martin; thereafter, on June 27, 1902, there was filed with the Commission an affidavit showing the birth, on June 3, 1902, of Cornelius Jones, child of the applicant, Ida Jones; by Charles J. Lynch for, among others, his wife, Ann Lynch (by intermarriage), the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Walter Vann for, among others, his wife, Elvira Vann; the others included in said application have been otherwise disposed of and their rights to enrollment will not be considered in this decision; by Paul Riley for herself and minor child, Jesse Barnett; thereafter, on April 9, 1902, there was filed with the Commission an affidavit showing the birth, on October 26, 1901, of John C. Riley, child of the applicant, Paul Riley; by Rosa Vann for herself and minor child, Josephine Vann; by William Townsend for himself; by Nellie Townsend for herself and minor children, Rosa, George, Arthur, and Ethel Townsend; by Dennis Hicks, Sr., for himself (by intermarriage), and wife, Bettie Hicks and minor children, Leroy, Dennis Jr., Delana, Mabel and Elmer Hicks; by Joshua Holt for himself and wife, Jane Holt, and minor stepchildren, Laura and Ella Peeson, and minor children, Jessie Willard, Clifford and Maucelia (Marellia) Holt; by Sallie Miller for herself; by Mary Johnson for herself; by Ruth Chinnett for

herself and minor children, Martha and Lillie Chinnett; subsequent to filing her application herein and prior to September 1, 1902, the applicant, Ruth Chinnett, was married to one George Vann, and she will now be listed for enrollment as Ruth Vann; by Frank Johnson for himself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 7, 1902, of Luella Johnson, child of the applicant, Frank Johnson; by Eliza Hawkins for herself and minor child, Tyndle E. Hawkins; by Joseph Hicks for himself and wife, Susie Hicks (by intermarriage), and minor child, Otto A. Hicks; by Katie Hicks for herself; by James A. Hicks for himself; by Frances Johnson for herself and minor children, Nettie, Katie, Clarence and Wilda Johnson; by Anna Butler for herself and minor child, Esther Owen; by Anna Butler for her adult brother, Howard Bushyhead; by Katie Davis for herself; by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and minor child, Nathaniel Riley; by Jesse Riley for himself and minor children, Joseph, Ollie, Viola, Mabel, Elnora, Ideller and Luther D. Riley; by Frank Riley for himself and minor children, Lottie, Fannie, James, Ralph, Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth, on November 30, 1901, of Earl E. Riley, child of the applicant, Frank Riley, and on June 28, 1902, there was filed with the Commission an affidavit showing the birth, on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant, Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller, and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Vola, Della, Ella and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Ellick Ward for himself and wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant, Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Waggoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth, on August 24, 1901, of Oval Waggoner, child of the applicant, Cora J. Waggoner; by Arthur Riley for himself; by Elizabeth Melton for herself and minor child, Elnora Melton; by Julius Curls for himself; by Riley Curls for himself and minor children, Willie, Edward, James, George, Stephenia and Clarence Curls; thereafter, on July 1, 1902, there was filed with the Commission an

affidavit showing the birth, on February 13, 1902, of Beatrice Curls, child of the applicant, Riley Curls; and by Ophelia Thompson for herself and minor children, Alpha, Libbie, Hirschel, Harvey and Clyde Thompson.

Copies of the following testimony, decisions, and Departmental letters are filed herewith and made a part of the record in this case: Its decision rendered by the Commission on March 5, 1904, and Departmental letter of May 17, 1904 (I.T.D. 3470-C4), in the case of Ed Vann, C.F.D. 660; its decisions rendered by the Commission on July 10, 1903, and June 23, 1904, and of Departmental letters of May 11, and November 12, 1904 (I.T.D. 2412, 5594-C4), in the cases of Jesse Vann et al., C.F.D. 254 (R 302), and Emma Purtle C.F.D. 265; its decisions rendered by the Commission on March 5, and April 20, 1904, and of Departmental letters of June 2, 23, and 25, 1904 (I.T.D. 4386, 5029-5034-C4), in the cases of Esther Holt, C.F.D. 645 (R 443), Tecumseh Holt, C.F.D. 653 (R 399), William Holt, C.F.D. 694 (R 398), and Moses Holt, C.F.D. 185; its decision rendered by the Commission on March 5, 1904, and Departmental letter of June 21, 1904 (I.T.D. 4736-C4); in the consolidated case of Katie Thornton et al., C.F.D. 578 et al., (R. 410-F 411-R 412-R 413-R 414); of the testimony taken at Chelsea, Indian Territory, June 8, 1901, its decision rendered by the Commission on April 20, 1904, and of Departmental letter of October 31, 1904, (I.T.D. 8158-C4), in the consolidated case of Katie Blackwell, et al., including, among others, the application of Mary Riley, C.F.D. 624; of its decision rendered by the Commission on November 23, 1904, in the consolidated case of Andrew T. Vatie, C.F.D. 502, et al., and of the testimony taken at different times and places in the cases of Edward Derrick, C.F.D. 818, Aaron Webber C.F.D. 216, Elizabeth Weigs, et al., C.F.D. 591, Samuel Beck, et al., C.F.D. 775, David Johnson, C.F.D. 356, Abraham Ward, C.F.D. 607 (R 235), and of Peter Ward, C.F.D. 615, (R 232).

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Katie Ridge, is the mother of the applicants, Cornelius Ridge and Mabel Johnson, and of one Jesse Ridge, and one Mary Ridge (later Hicks, former wife of Dennis Hicks Sr., D 350, infra.), both deceased; that the said applicants and the said Jesse and Mary Ridge, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish residence therein within the time specified in the decree of the United States Claims rendered on February 3, 1896, in the case of Moses Whitmore, trustee, etc., vs. the Cherokee Nation et al., for the return of Cherokee freedmen to said Nation; that the applicants, Laura Ridge and Ary Lynch, neither claim nor possess any rights of enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicant Cornelius Ridge and to the said Jesse Ridge, deceased; that the applicants, Pearl, Jesse, Myrtle and Henry C. Ridge, and Ida Jones, are children of the said

applicants, Cornelius and Laura Ridge, were born since 1866, and possess no rights to enrollment other than as descendants of their said parents; that the applicants, Joseph, Percy, Herbert, Serena and Pearl Hilton, Maud Riley, Rosa Vann, and William Townsend, are children of the applicant Phebe Johnson, were born since 1860, and possess no rights to enrollment other than as descendants of their said mother; that the applicants, Lee, Eddie, and Stella Martin and Cornelias Jones, are children of the applicant Ida Jones, were born since 1880, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said applicants Lee, Eddie and Stella Martin, possess any rights to enrollment other than as descendants of their said mother, and the applicant Cornelias Jones, possesses no rights to enrollment other than as his mother's descendants; that the applicant Elnora Vann, is a child of the applicant Ary Lynch, and the said Jesse Ridge, deceased, was born since 1890, and possesses no rights to enrollment other than as a descendant of her said parents; that the applicant Jesse Barnett, is a child of the applicant Maud Riley, was born since 1890, and, after ample opportunity afforded, it is not established by satisfactory evidence that the said Jesse Barnett possesses any rights to enrollment other than as a descendant of his said mother, and that the applicant John C. Riley, is a child of the said applicant Maud Riley, and one William Riley, (said William Riley's rights to enrollment are considered below, C. F. D. 363), was born since 1890, and possesses no rights to enrollment other than as a descendant of his said parents; that the applicant Josephine Vann, is a child of the said applicant Rosa Vann, was born since 1890, and possesses no rights to enrollment other than as a descendant of her said mother (In C.F.D. 660, the Commission found that one Ed Vann, father of the said applicant Josephine Vann, possesses no rights to enrollment as a Cherokee freedman, and on May 17, 1904, Departmental letter I.T.D. 347C-04, said finding was approved by the Department); that the applicant Mollie Townsend, is a daughter of one Jesse Vann, and one Emma Purtle, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 254 and 265 the Commission found that the said Jesse Vann and Emma Purtle possess no rights to enrollment as Cherokee freedmen, and on May 11, and November 12, 1904, Departmental letters I.T.D. 2412-8594-04, said findings were approved by the Department); and that the applicants, Rosa, George and Arthur Townsend, are children of the said applicants William and Mollie Townsend, were born since 1890, and possess no rights to enrollment other than as descendants of their said parents.

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicants, Dennis Hicks Sr., and Susie Hicks, neither claim nor possess any rights to enrollment as Cherokee freedmen other than those obtained by virtue of their marriage to the applicants Lettie and Joseph Hicks; that the applicants Lettie Hicks, Joshua Holt

and Sallie Miller, (children of One Esther Holt), and Anderson Johnson, deceased, Buck Bushyhead, deceased, and Nettie Downing, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the Whitmire decree, supra., for the return of freedmen to the Cherokee Nation; that the applicants, Leroy, Dennis Jr., Delana, Mabel, and Elmer Hicks, Jane Holt, Laura and Ella Season, Jessie, Willard, Clifford and Paul-celia (Marcella) Holt, Mary Johnson, Ruth Vann, Martha and Lillie Chinnett, Frank and Luella Johnson (In C.F.D. 855 the Commission found that one Charlotte Beck, mother of the applicant, Luella Johnson, possesses no rights to enrollment as a Cherokee freedman, and on July 21, 1904, its finding was approved by the Department), Elize and Tyndie E. Hawkins, Joseph, Otto A., Katie and James A. Hicks, Frances, Nettie, Katie, Clarence and Wilda Johnson, Anna Butler, Esther Owen, Howard Bushyhead, and Katie Davis, were born since the commencement of the rebellion, are descendants of the said applicants, Dennis Hicks Sr., Bettie and Susie Hicks, Joshua Holt and Sallie Miller, and of Anderson Johnson, deceased, Buck Bushyhead, deceased, Nettie Downing, deceased, and Mary Ridge, deceased, (In re Mary Ridge see preceding paragraph), and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

THE EVIDENCE FURTHER SHOWS: That one Riley McHair and one Maria McHair, both deceased, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah and Lottie Johnson, and of Millie McHair, deceased; that the said Riley, Maria and Millie McHair, all deceased, and the said applicants, Moses, Andrew, Jesse and Jerry Riley, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Elick and Amanda Ward and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, were taken from the Cherokee Nation during said rebellion, and did not return thereto and establish a residence therein within the time specified in the above mentioned Whitmire decree, for the return of Cherokee freedmen to said Nation; that the applicant, Ruth Riley, is a daughter of Henry Thornton, deceased, and Fattie Thornton, was born since 1866, and possesses no rights to enrollment other than as a descendant of her said parents; (In C.F.D. 578, 580 and 581, the Commission found that the said Katie Thornton and one Maggie Curle and one Joseph Thornton, full sister and brother of the said applicant, Ruth Riley, possess no rights to enrollment as Cherokee freedmen, and on June 21, 1904, its finding was approved by the Department); that the applicant, Hannah Riley, was born prior to the commencement of the rebellion, and was the slave of a non-citizen of the Cherokee Nation at the commencement of the rebellion, and that the applicants, Lillie

Nathaniel, Joseph, Ollie, Viola, Mabel, Elnora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E., Clarence (In U. S. D. 624, the Commission found that one Mary Riley, wife of the applicant Frank Riley, and mother of the applicants, Lottie, Fannie, James, Ralph, Arizona, Inola and Earl E. Riley, and grandmother of the applicant, Clarence Riley, possesses no rights to enrollment as a Cherokee freedman, and on October 31, 1904, its finding was approved by the Department), Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Rebecca, Rufus Wilbert and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Edna, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J., and Oval Wagoner, Arthur Riley, Elizabeth and Elnora Melton, Julius, Riley, Willie, Edward, James, George, Stephenia and Beatrice Curls, (One Nancy Curls, U. S. D. 429, who was denied enrollment by the Commission is the mother of the six last mentioned applicants), Ophelia, Alpha, Libbie, Hirschel, Harvey, and Clyde Thompson, were born since the commencement of the rebellion, are descendants of the said applicants, Moses, Andrew, Jesse, Jerry, Jane, Ruth and Hannah Riley, Fannie Scott, Lottie Johnson, Daniel and Sandy Thompson, and Ellok and Amanda Ward, and of the said Riley McNair, deceased, Maria McNair, deceased, and Millie McNair, deceased, Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, and possess no rights to enrollment other than as such descendants.

None of the applicants herein born during or prior to the first below mentioned year, nor the ancestors of any of the said applicants herein born during or subsequent to the said first below mentioned year, can be identified on the Cherokee authenticated tribal roll of 1880, and none of the applicants herein can be identified on the Cherokee census roll of 1896.

THE EVIDENCE HEREIN FURTHER SHOWS: That the applicants Ethel Townsend and Clarence Curls, died prior to September 1, 1900. Affidavits to that effect are filed herewith and made a part of the record herein.

Section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

The applicants, Katie and Cornelius Ridge and Fieche Johnson, testify that they, together with Mary and Jesse Ridge,

both deceased, returned to the Cherokee Nation in 1866, remained a few months, and then removed to Joplin, Missouri, where they resided for a number of years. That they returned to the Cherokee Nation in 1866 is controverted by the testimony of witnesses who were in a position to know the matters of which they testify. In view of the fact that the burden of proof is on the applicants, and they must show by satisfactory evidence that their rights to enrollment are perfect, it is considered that these applicants have wholly failed in this, and that their applications come within the rulings of the Department in the cases of Eliza Bryant, et al. (I.T.D. 544-04), William Rector (I.T.D. 1468-04), Minnie Duncan et al. (I.T.D. 1470-04), Samantha Chambers, (I.T.D. 2296-04), Ed Williams (I.T.D. 4230-04), Martha Albert et al., (I.T.D. 4752-04), and Moses Ross (I.T.D. 6056-04); and, granting that said above named parties did return to the Cherokee Nation in 1866, as contended, it is further considered that they did not establish such a residence in said Nation as was contemplated by the treaty of 1866, and are, therefore, within the rulings of the Department in the cases of Martha Gales and Susan Brown (I.T.D. 1850-04), and Thomas Mayfield et al. (I.T.D. 6963-04).

The testimony in re return to the Cherokee Nation, after the rebellion, of the applicants, Bettie Hicks, Joshua Holt, and Sallie Miller, and of the said Buck Bushyhead, deceased, and Bettie Downing, deceased, is contradictory in itself, and contradicted by the testimony of witnesses in behalf of the Cherokee Nation, hence, it is unsatisfactory, and the first above mentioned rulings of the Department are considered applicable. In this connection attention is called to the cases of Esther Holt, C.F.D. 645, Tecumseh Holt, C.F.D. 653, William Holt, C.F.D. 694, and Moses Holt, C.F.R. 185, mother and brothers of the three applicants first named in this paragraph. The material facts as established by the evidence in the several cases embracing this family, are practically the same, and the Commission found that the said Esther, Tecumseh, William and Moses Holt, possess no rights to enrollment as Cherokee freedmen, and its findings were duly approved by the Department. Granting that the applicants, Bettie Hicks, Joshua Holt and Sallie Miller, and the said Buck Bushyhead and Bettie Downing, deceased, returned to the Cherokee Nation during the interval between the close of the rebellion and February 11, 1867, they must have remained but a short time, as, by the testimony of the applicants themselves, and that of disinterested witnesses, it is shown that during a period beginning immediately subsequent to the year 1867, they, for a number of years, continuously lived outside the limits of the Indian Territory, consequently, the ruling of the Department in the cases of Martha Gales, Susan Brown and Thomas Mayfield, et al., supra., is also applicable to them. Sam Webber, Lewis Whitmire, and Daniel and Reuben Sanders, testify that Anderson Johnson returned to the Cherokee Nation with them in the summer of 1866, but for reasons more fully set out below, it is not considered that their testimony is either convincing or satisfactory. That these four witnesses complied with

of the stipulations of 1866, there is no doubt. They were admitted to citizenship by the Chambers Court, and are identified on the roll. Without calling attention to the many cases in which the above named witnesses have been successfully contradicted and repeatedly impeached, it is considered by this office that, after hearing the testimony of numerous witnesses, interested and disinterested, and after the examination of many exhibits filed and made a part of the record in freedman cases, it can identify each and every member of the party of freedmen known as the Liberty-Whitmire-Sanders detachment, or colony, who complied with the treaty stipulations of 1866, and it is fully convinced that Anderson Johnson was not a member of that party. In support of this position attention is called to the fact that the personnel of the above mentioned party was thoroughly gone into by the Chambers Court, in 1878-9, and numerous witnesses, among others, the said Lewis Whitmire, examined on behalf of both parties, and that, too, at a time when the facts must have been fresh in their minds, and no particular advantage was to be had by misrepresenting who were included in said party, with one accord testify as to who composed this colony of freedmen, and the said Anderson Johnson is never named as one of them. By reason of changed conditions, the experience of the former Commission and of this office, in their investigations relative to the personnel of said colony of freedmen, has been somewhat different from that of the Chambers Court, but generally the conclusions reached have been the same. It seems to have been the policy of those witnesses appearing before the Commission, who were members of the above mentioned colony of freedmen, to add to said colony as occasion required, but after an examination of a great number of freedmen cases in which the above named witnesses testified, it cannot be found that they ever included Anderson Johnson as a member of this colony, until they were called upon as witnesses in behalf of his descendants, although they were often asked to, and as often did, name those who returned with them in 1866.

As to the return of Riley McNair, deceased, to the Cherokee Nation after the rebellion: Moses Hardrick, in behalf of the descendants of the said Riley McNair, testifies that, after the rebellion, he and Riley McNair returned to the Cherokee Nation together. In C.F.D. 314, the Commission found that the said Moses Hardrick did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on October 13, 1904, its finding was approved by the Department. It was several months after the above indicated trip before Riley McNair moved his wife and family to the Cherokee Nation. One Emma Purtle, daughter of the said Riley and Maria McNair, removed from the Cherokee Nation during, and returned thereto after, the rebellion, with her father's family. In C.F.D. 265, the Commission found that the said Emma Purtle did not return to the Cherokee Nation within the time specified in the Whitmire decree, and on November 12, 1904, its finding was approved by the Department. The said Columbus Rogers, deceased, returned to the Cherokee Nation after the rebellion, with the said McNair-Riley family.

The applicant, Jane Riley, testifies that she returned to the Cherokee Nation in 1866, and is corroborated by her witness, Jack Landrum. No credit can be given the testimony of the said Jack Landrum, as he has been repeatedly contradicted and impeached, (See, in particular, C. F. D. 493-D 664 and D 863). In C. F. D. 572 (R 410), he swore, point blank, that Katie Thornton, applicant therein, and her husband, Henry Thornton, deceased, returned to the Cherokee Nation during the winter of 1866, and that he hauled logs to help build their house. In this case it was conclusively shown by the testimony of disinterested witnesses, that the said Katie and Henry Thornton did not leave Garnett, Kansas, after the rebellion, prior to March 1, 1871, and on this testimony the Commission denied the applicant, Katie Thornton, the right to enrollment, and its action was duly approved by the Department. Attention is further called to the fact that the said applicant, Jane Riley, and one Ben Landrum, deceased, are the parents of the applicants Charles Landrum and Pettie McIntosh, and that the said two last named applicants were born in 1861 and 1862, respectively. It is shown by the testimony of several disinterested witnesses, and a certified copy of the record of certain proceedings had before the District Court of Woodson County, Kansas, that the said Ben Landrum, continuously lived near Garnett, Kansas, during the years 1863, '67 and '68.

The applicant Daniel Thompson, testifies that on his return to the Cherokee Nation after the rebellion, he found his son, Andrew Watie, at Fort Gibson. In C. F. D. 502, the Commission found that the said Andrew Watie did not return to the Cherokee Nation after the rebellion within the time specified in the Whitmire decree. The applicants Sandy Thompson and Amanda Ward, returned with their father, the said Daniel Thompson.

In connection with those applicants herein who claim through Jess Ridge, deceased, and the applicants, Cornelius Ridge, Henry Ridge, Daniel Thompson, and Robert Foster, attention is called to the fact that the Commission on Cherokee Citizenship of 1893-9, decided that the said Jess Ridge, since deceased, and the four applicants last above named, were not entitled to Cherokee citizenship, a certified copy of the proceedings of said Commission in re above named parties, being filed herewith and made a part of the record herein.

The applicant, Elick Ward, swears that he was raised by one Peter Ward, and after the rebellion returned to the Cherokee Nation with the said Peter Ward and one Abraham Ward. In C. F. D. 613 (R 282), and D 607 (R 283), the Commission found that the said Peter and Abraham Ward did not return to the Cherokee Nation after the rebellion, within the time specified in the Whitmire decree, and on April 29, 1904, its findings were approved by the Department.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, following the ruling of the Department in the case of Lemuel Welcome (I. T. D. 5643, 11776-04), under the provisions of the Act of Congress approved June 26, 1898 (30 Stat., 495), Laura Ridge, Ay Lynch, Dennis Hicks Sr., and Susie Hicks, are not entitled to enrollment

as citizens by intermarriage of the Cherokee Nation, and their applications for enrollment as such are accordingly denied; and that under the provisions of Section Twenty-one of the Act last above noted Katie Ridge, Cornelius Ridge, Pearl Ridge, Jesse Ridge, and Myrthe Ridge, Phoebe (Milton) Johnson, Joseph Milton, Percy Milton, Herbert Milton, Serena Milton, and Pearl Milton, Henry C. Ridge, Ida Jones, Lee Martin, Eddie Martin, and Stella Martin, Cornelias Jones, Elnora Vann, Maud Riley, Jesse Barnett and John C. Riley, Rosa Vann and Josephine Vann, William Townsend, Follie Townsend, Rosa Townsend, George Townsend, and Arthur Townsend, Bettie Hicks, Leroy Hicks, Dennis Hicks Jr., Delana Hicks, Mabel Hicks and Elmer Hicks, Joshua Holt, Jane Holt, Laura Beeson, Ella Beeson, Jessie Holt, Willard Holt, Clifford Holt and Maucelia (Marcella) Holt, Sallie Miller, Mary Johnson, Ruth Vann, Martha Chinnett and Lillie Chinnett, Frank Johnson and Luella Johnson, Eliza Hawkins and Tyndle E. Hawkins, Joseph Hicks, Otto A. Hicks, Katie Hicks, James A. Hicks, Frances Johnson, Nettie Johnson, Katie Johnson, Clarence Johnson and Wilda Johnson, Anna Butler, Esther Owey, Howard Bushyhead, Katie Davis, Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertina Riley, Ada Riley, and Leona Riley, Fannie Scott, Charles Wesley Miller, Fessie Scott, and Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson and Arch Johnson, Jane Riley, Daniel Thompson, Eliok Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward and Faine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, and Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagner and Oval Wagner, Arthur Riley, Elizabeth Melton and Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls and Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson and Clyde Thompson, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

AND IT IS FURTHER ORDERED AND ADJUDGED: That the applications for the enrollment of Ethel Townsend and Clarence Curls, be, and the same are, hereby dismissed, in accordance with the provisions of section twenty-five of the Act of Congress approved July 1, 1902 (32 Stat., 716).

(Signed) Tams Bixby

COMMISSIONER.

Dated at Muskogee, Indian Territory,

Oct. 13, 1905.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Moses Riley et al., as Cherokee Freedmen, consolidating the
applications of:

Moses Riley et al.	Cherokee Freedmen	D	258
Andrew Riley et al.,	Cherokee Freedmen	D	260
Jesse Riley et al.,	Cherokee Freedmen	D	261
Frank Riley et al.,	Cherokee Freedmen	D	262
Jerry Riley et al.,	Cherokee Freedmen	D	263
Fannie Scott et al.,	Cherokee Freedmen	D	266
Delilah Johnson et al.	Cherokee Freedmen	D	267
Lottie Johnson et al.	Cherokee Freedmen	D	268
Jane Riley	Cherokee Freedmen	D	600
Daniel Thompson	Cherokee Freedmen	D	606
Elick Ward et al.,	Cherokee Freedmen	D	623
Sandy Thompson	Cherokee Freedmen	D	693
Ruth Riley et al.	Cherokee Freedmen	D	579
Hannah Riley	Cherokee Freedmen	D	569
Charles Landrum	Cherokee Freedmen	D	601
Bettie McIntosh	Cherokee Freedmen	D	903
William Riley	Cherokee Freedmen	D	603
Carrie Gibson,	Cherokee Freedmen	D	704
Cora J. Wagoner et al.	Cherokee Freedmen	D	570
Arthur Riley	Cherokee Freedmen	D	571
Elizabeth Melton et al.	Cherokee Freedmen	D	441
Julius Curls	Cherokee Freedmen	D	269
Riley Curls, et al.	Cherokee Freedmen	D	270
Ophelia Thompson et al.	Cherokee Freedmen	D	271
Mollie Townsend et al.	Cherokee Freedmen	D	651
Ema Purtle	Cherokee Freedmen	R	586
Ellen Bean	Cherokee Freedmen	R	674
Walter Vann et al.	Cherokee Freedman	R	675
Frank Vann et al.	Cherokee Freedmen	R	302

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications
for enrollment as Cherokee Freedmen were made to the Commission

to the Five Civilized Tribes by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and minor child Nathaniel Riley; by Jesse Riley for himself and minor children, Joseph, Ollie, Viola, Mabel, Elnora, Ideller and Luther D. Riley; by Frank Riley for himself and minor children, Lottie, Fannie, James, Ralph, Arizona and Inola Riley; thereafter, on June 12, 1902, there was filed with the Commission an affidavit showing the birth on November 30, 1901, of Earl E. Riley, child of the applicant, Frank Riley, and on June 28, 1902, there was filed with the Commission an affidavit showing the birth on December 31, 1901, of Clarence Riley, an illegitimate child of the applicant Lottie Riley; by Jerry Riley for himself and minor children, Samuel, James E., Amanda, Myrick, Maggie, Calvin, Bertha, Ada and Leona Riley; by Fannie Scott for herself and minor children, Charles Wesley Miller and Bessie and Jimmie Scott; by Delilah Johnson for herself and minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, and Harrison Johnson; by Lottie Johnson for herself and minor children, Rebecca, Luford, Wilbert and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Elick Ward for himself, his wife, Amanda Ward, and minor children, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse, and Maine Ward; by Sandy Thompson for himself; by Ruth Riley for herself; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on January 22, 1902, of Lenora Odine Riley, child of the applicant Ruth Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself; thereafter, on October 3, 1901, there was filed with the Commission an affidavit showing the birth, on August 24, 1901, of Oval Wagoner, child of the applicant Cora J. Wagoner; by Arthur Riley for himself; by Elizabeth Melton for herself and minor child, Elnora Melton; by Julius Curle for himself; by Riley Curle for himself and minor children, Willie, Edward, James, George, Stephenie and Clarence Curle; thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on February 13, 1902, of Beatrice Curle, child of the applicant Riley Curle; by Ophelia Thompson for herself and minor children, Alpha, Libbie, Mischel, Harvey, and Clyde Thompson; by Mollie Townsend for herself and minor children, Rosa, George, Arthur and Ethel Townsend; by Emma Purtle for herself; by Ellen Bean for herself; by Walter Vann for himself and minor child, Waneta Vann; by Jesse Vann for himself and minor children, Frank, Riley, and Lovat Vann. As the application of Jesse Vann has been differently classified, his right to enrollment will not be considered in this decision.

The records further show that on October 13, 1905,

the Commissioner to the Five Civilized Tribes rendered his decision herein denying, among others, all of the above mentioned applicants, except Emma Purtle, Ellen Bean, and Walter, Waneta, Frank, Riley and Lovat Vann, the right to enrollment as Cherokee freedmen, which decision was duly forwarded to the Department, and thereafter, on July 9, 1906 (I.T.D. 17884-1906), said case was remanded to the Commissioner for rehearing and readjudication; that on July 23, 1904, the Commission to the Five Civilized Tribes rendered its decision rejecting the applications for the enrollment of Emma Purtle, Ellen Bean, and Walter and Waneta Vann as Cherokee freedmen; that said decision was, on November 12, 1904, (I.T.D. 8594-1904), duly affirmed by the Department. Thereafter, on September 18, 1906, the Department rescinded its said decision of November 12, 1904, and remanded said case to the Commissioner to be consolidated with the Cherokee freedmen cases of Moses Riley et al., and to be readjudicated with the same; and that, on July 10, 1903, the Commission to the Five Civilized Tribes rendered its decision rejecting, among others, the application for the enrollment of Frank, Riley, and Lovat Vann, as Cherokee freedmen; that said decision was, on May 11, 1904 (I.T.D. 2412-1904), duly affirmed by the Department, and that thereafter, on October 12, 1906 (I.T.D. 12379-1906), the Department directed that the rights of these children to enrollment as Cherokee freedmen be adjudicated in connection with the case of their alleged mother, the said Emma Purtle.

Further proceedings were had in this consolidated case at Garnett, Kansas, October 26, 1906, and at Muskogee, Indian Territory, December 7, 8, 10, 11, and 12, 1906. December 12, 1906, the Commissioner ordered that the cases of Daniel Thompson, D 606, Ellick Ward et al. D 623, and Sandy Thompson, D 693, be separated from the consolidated case of Moses Riley et al. The applicants in these three cases have several times been notified to appear and introduce testimony showing their right to enrollment as Cherokee freedmen, but have failed to do so. There is filed herewith and made a part of the record herein, a letter from Messrs. Starr & Patton, attorneys representing a majority of the applicants included in this case, dated January 17, 1907, referring to the three cases mentioned and stating that they "are unable to do anything with the case from the applicants' standpoint" and that "we will have no testimony to introduce in the case." The Commissioner's order of December 12, 1906, separating these three cases from the consolidated case of Moses Riley et al., is therefore hereby set aside.

Since this case was remanded to the Commissioner there have been filed herewith and made a part of the record herein, the following documents:

A certified copy of a marriage license issued on June 24, 1893, by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing the marriage of Thos. H. Allen and Millie McNair;

A certified copy of the "indictment, trial, and judgment of the Court and Jury" in the case of Riley Curle et al. in the United States District Court for the Western District of Arkansas, Fort Smith Division;

A certificate by the Clerk of Anderson County, Kansas, relative to whether the names of certain of the applicants herein appear upon the assessment records of Monroe Township, Anderson County, Kansas, during the years 1867, 1868 and 1869;

Six permits issued by the Clerk of Cooweescoowee District, Cherokee Nation, authorizing Jerry McNair, or Riley, to employ certain persons;

An application made by Lewis Whitmire to the Chambers Court of the Cherokee Nation, on June 26, 1878, for Cherokee citizenship;

A certified copy of an Act of the Cherokee National Council approved October 12, 1866, relative to the repeal of certain confiscation acts permitting Southern Cherokees to repossess themselves of their homes and effects December 1, 1866.

THE EVIDENCE IN THIS CASE SHOWS: That Samuel Riley, or McNair, and Maria Riley, or McNair, were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Emma Purtle, Fannie Scott, Delilah Johnson, Lottie Johnson, and Millie Riley, or McNair, deceased; that the said Riley, Maria, and Millie McNair, all deceased, and the applicants, Moses, Andrew, Jesse and Jerry Riley, Emma Purtle, Fannie Scott and Lottie Johnson, and the applicants, Jane Riley, Daniel Thompson, Ellick and Amanda Ward, and Sandy Thompson, and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the commencement of the war of the rebellion, and that they were taken from the Cherokee Nation during said rebellion.

Since the case was remanded to the Commissioner for further proceedings no additional evidence has been submitted showing whether or not Jane Riley returned to the Cherokee Nation within the time limited by the Treaty of 1866, or to show that she possesses any right whatever to Cherokee freedman citizenship.

The applicant Ruth Riley, was born since 1866, is a daughter of Henry Thornton, deceased, and Katie Thornton, who were slaves of Cherokee citizens at the commencement of the war of the rebellion, but after ample opportunity having been afforded, the applicant has wholly failed to establish by satisfactory evidence that her said parents complied with the provisions of the Treaty of 1866, or to show that she possesses any right whatever to enrollment as a Cherokee freedman.

It is not shown, nor does it appear that it is claimed

that Hannah Riley possesses any right whatever to Cherokee freedman citizenship.

The evidence in the case shows that Harrison Johnson, deceased, father of the minor applicants, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, and Harrison Johnson, and Jane Riley, Daniel Thompson, Ellick and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, and Columbus Rogers, deceased, did not return to the Cherokee Nation, after the war of the rebellion, and establish an actual personal bona fide residence therein, as provided by Section three of the Act of Congress approved April 26, 1906 (34 Stat. 137).

The applicants Lillie, Nathaniel, Joseph, Ollie, Viola, Mabel, Elnora, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E. (In C. F. D. 624 the Commission to the Five Civilized Tribes found that Mary Riley, mother of the seven last named children, was not entitled to enrollment as a Cherokee freedman, and its finding was affirmed by the Department October 31, 1904-I.T.D. 8138-1904-), Clarence, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada, and Leona Riley, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Rebecca, Luford, Wilbert, and Arch Johnson, Henrietta, Irvin, Harry, Roy, Dan, Effie, Troy, Jesse and Maine Ward, Lenora Odine Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. and Oval Wagoner, Arthur Riley, Elizabeth and Elnora Melton, Julius, Riley, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curis, Ophelia, Alpha, Libbie, Hirschel, Harvey, and Clyde Thompson, were born since the commencement of the war of the rebellion and possess no right to Cherokee freedman citizenship other than as descendants of the said Samuel and Maria Riley, deceased, and Moses, Andrew, Jesse and Jerry Riley, Fannie Scott, Lottie Johnson, Millie Riley, deceased, Jane Riley, Daniel Thompson, Ellick and Amanda Ward, Sandy Thompson, Ben Landrum, deceased, Harrison Johnson, deceased, Columbus Rogers, deceased, Ruth Riley and Hannah Riley.

The Commissioner to the Five Civilized Tribes on February 23, 1907, rendered his decision rejecting the application of Jesse Vann, father of the applicants Mollie Townsend, Ellen Bean, Walter Vann and Frank, Riley, and Lovat Vann, for enrollment as a Cherokee freedman. It is therefore considered that the applicants Mollie, Rosa, George, Arthur and Ethel Townsend, Ellen Bean, Walter, Waneta, Frank, Riley, and Lovat Vann, who were born since 1866, possess no right to enrollment as Cherokee freedmen other than as descendants of their mother and grandmother, the said Emma Purtle.

The only question remaining to be decided in this case is:

Did Samuel Riley or McNair and his wife Maria Riley, and their children herein named, who were born at that time, return to the Cherokee Nation after the close of the war of the rebellion, within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship?

Since this consolidated case was remanded to the

Commissioner there have been introduced on both sides of the case, forty-seven witnesses, whose testimony is exceedingly contradictory.

The applicants claim that Samuel Riley came to the Cherokee Nation in the spring of 1866; that he raised a crop of corn on the place of Jack and Susannah McNair, his former owners; that he remained in the Cherokee Nation during the summer of 1866; then returned to the state of Kansas, and in the fall of 1866, brought his family, including the said Moses, Andrew, Jesse, Frank, and Jerry Riley, Fannie Scott, Delilah Johnson, Lottie Johnson, and Emma Purdie, directly to, and settled on, the Jack and Susannah McNair place, where they continued to reside during the years 1867 and 1868.

The evidence shows that Millie Riley, deceased, a daughter of said Samuel and Maria Riley, and mother of the applicants Julius, and Riley Curle and Ophelia Thompson, and grandmother of the minor applicants, Willie, Edward, James, George, Stephenia, Clarence and Beatrice Curle, and Alpha, Libbie, Hirschel, Harvey and Clyde Thompson, returned to the Cherokee Nation at a later date than the other members of her said family.

The testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the Jack and Susannah McNair place by any member or members of this Riley or McNair family, in 1866, and that none of said family were on that place, after the war of the rebellion, earlier than, possibly, May, 1867.

The testimony introduced on behalf of the applicants to the effect that when the Riley family left the state of Kansas they went direct to the said Jack and Susannah McNair place in the Cherokee Nation, is uncontradicted. William Spriggs, who testified in the case at Garnett, Kansas, October 26, 1906, on behalf of the applicants, and on whose testimony it appears the applicants so much rely, states that this family left his place for the Cherokee Nation in the fall of 1866, but in an affidavit executed by him August 25, 1906, before a Notary Public, which affidavit is copied into and made a part of the record in this case, he states, in reply to the question-"How did he (meaning Samuel Riley, or McNair) come to leave your farm?" that "Congress had passed an Act giving the freedmen an interest with the Indians in the lands in the Cherokee Nation, provided they were there by a time specified in the Act, and I informed him of the passage of the Act and advised him to return in time to obtain that interest, and he left for that purpose."

There is in the possession of this office a Roll of the Cherokee People, made from a census taken in 1867, which roll was made under authority of Section twelve, Treaty of 1866, for the purpose of ascertaining the number of Cherokee citizens in order that the representation of the Cherokee Nation in the General Council provided for by said treaty might be properly apportioned.

Section 12 of said Treaty reads in part as follows:

"After the ratification of this Treaty, and as soon as may be deemed practicable by the Secretary

of the Interior, and prior to the first session of said council, a census or enumeration of each tribe lawfully resident in said (Indian) Territory shall be taken under the direction of the Commissioner of Indian Affairs, who, for that purpose, is hereby authorized to designate and appoint competent persons, whose compensation shall be fixed by the Secretary of the Interior and paid by the United States."

Under authority of this provision the Commissioner of Indian Affairs appointed one W. Tompkins to take the census of the Cherokee Tribe. In taking this census Mr. Tompkins followed the political divisions of the Cherokee Nation. The roll made from this census is contained in four substantial well preserved volumes, the names of the Cherokee citizens, at that time, appearing in their respective districts, said districts being divided in four volumes, as follows, to-wit:

Going Snake and Delaware Districts	Volume 1
Tahlequah and Saline Districts	Volume 2,
Canadian and Delaware Districts	Volume 3,
Flint, Sequoyah and Koo-wees-koo-wee Districts,	Volume 4.

The citizens of the Cherokee Nation were classified by the census taker under four heads, namely: Indians, Whites, Halfbreeds and Colored. In his recapitulation of the census taken, Mr. Tompkins found there were 13566 Cherokee citizens residing in their nation, divided under the foregoing heads, as follows: Indians, 9588, Whites, 47, Halfbreeds, 2650, and Colored, 1281. The certificate of the census taker is found on the last page of Volume 4, and reads as follows, to-wit:

"I certify that the foregoing is a true and correct census or enumeration of the Cherokee Indians residing in their Nation:- taken in obedience to your appointment per telegram dated June 10, 1867, and instructions dated July 1, 1867, and in accordance with the provisions of Article 12th, Section 1st of a Treaty made with the Cherokee Nation dated July 19, 1866.

W. Tompkins,

Special U. S. Commissioner to take census of Cherokee Indians."

This roll is considered reliable for the reason that the census from which it was made was taken by disinterested parties and for a purpose that makes it highly improbable that any reason existed for placing on said roll the name of any person not entitled or excluding therefrom the name of any person entitled to citizenship in the Cherokee Nation. The question as to whether

or not those claiming under Article 9 of the Treaty of 1866 had complied with the provisions thereof was, at that time, easily determined, especially so as to the date of return, inasmuch as this census was taken only a few months after the time limited by said Article 9 of the Treaty for the return of Cherokee freedmen, had expired.

An examination of the roll fails to show the names of any of the above named applicants, or of any of the aforementioned deceased ancestors, enumerated thereon.

It is therefore considered, in view of the record in this case and of the fact that no one of the applicants herein or any of the ancestors through whom they claim the right to Cherokee freedman citizenship is identified upon said roll of 1867, that they, or either of them did not return to the Cherokee Nation within the time limited by the treaty of 1866, to entitle them to Cherokee freedman citizenship.

Since the last proceedings had in this case, this office has secured from the Executive Secretary of the Cherokee Nation a list of the "Names of persons who have appeared, or have been duly Summonsed before the Commission on Citizenship of the Cherokee Nation, during the years 1878-79 & 80, and who have failed to establish their rights to Cherokee Citizenship;" which list was certified to by the Assistant Executive Secretary of the Cherokee Nation on the "18th day of April--" (record is worn and year not shown). Among others appearing in the list is the following:

No. of Case.	Names of Claimants,	1878-9
Col. 81	Riley McHair	Decisions rendered.
		By default.

The failure of this colored person to prosecute his claim for Cherokee citizenship before the Cherokee Commission on Citizenship when his case was before that tribunal, which was at a time when the question as to the date of his return to the Cherokee Nation after the war of the rebellion could have been easily determined, is considered strong evidence of the fact that the conclusion herein reached that said applicants did not return to the Cherokee Nation prior to February 11, 1867, is correct.

The evidence herein further shows that the applicants, Ethel Townsend and Clarence Curle died prior to September 1, 1902, and affidavits to that effect are filed herewith and made a part of the record herein.

Section 25 of the Act of Congress approved July 1, 1902 (32 Stat. 716), provides:

"The roll of citizens of the Cherokee Nation shall be made as of September first, nineteen hundred and two, and the names of all persons then living and entitled to enrollment on that date shall be placed on said roll by the Commission to the Five Civilized Tribes."

IT IS THEREFORE ORDERED AND ADJUDGED: That, under the provisions of Section 21 of the Act of Congress approved June 28, 1898 (30 Stat., 495), Moses Riley, Lillie Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl B. Riley, Clarence Riley, Jerry Riley, Samuel Riley, James R. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Jane Riley, Daniel Thompson, Elick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward, Maine Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley, Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Emma Purtle, Ellen Bean, Walter Vann, Waneta Vann, Frank Vann, Riley Vann and Lovat Vann, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied; and it is further ordered that, under the provisions of Section 25 of the Act of Congress above quoted the applications for the enrollment as Cherokee freedmen of Clarence Curls and Ethel Townsend, should be, and the same are, hereby dismissed.

Tams Bixby.

Commissioner

Dated at Muskogee, Indian Territory,
this FEB 27 1907

NOTICE.

Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

MUSKOGEE, IND. TER.,
from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Andrew Riley,
Alluwe, I.T.
Cherokee F-D-260
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cherokee Freedmen

D-295, et al.

Muskogee, Indian Territory, October 13, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting the applications for enrollment as Cherokee freedmen and citizens by intermarriage of the Cherokee Nation in the consolidated applications of Katie Nidge, et al., Cherokee freedmen D-295, et al.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the action of the Secretary as soon as this office is informed of the same.

Respectfully,

(Signed) Tams Dixby

Commissioner.

Incl. B-223

Cherokee Freedmen

D-295, et al.

Muskogee, Indian Territory, October 13, 1905.

Edgar Smith,

Attorney for Katie Ridge, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting the applications for enrollment as Cherokee freedmen and as citizens by intermarriage of the Cherokee Nation in the consolidated applications of Katie Ridge, et al., Cherokee freedmen D-295, et al. You have heretofore been furnished a copy of the record of proceedings had in this case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the action of the Secretary as soon as this office is informed of the same.

Respectfully,

(Signed) Tams Bixby

Commissioner.

Incl. 5-222

Register

Muskogee, Indian Territory, October 13, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of September 13, 1905, (I.T.D. 2218, 7024-1905), there is herewith transmitted the record of proceedings had in the matter of the consolidated applications for enrollment as Cherokee Freedmen and as citizens by intermarriage of the Cherokee Nation, of Katie Ridge, et al., Cherokee Freedmen D 295, et al., including the decision of the Commissioner to the Five Civilized Tribes dated October 13, 1905, rejecting the applications of Laura Ridge, Ary Lynch, Dennis Hicks Sr., and Susie Hicks, as citizens by intermarriage of the Cherokee Nation, and of Katie Ridge, Cornelius Ridge, Pearl Ridge, Jesse Ridge and Myrtle Ridge, Phoebe (Milton) Johnson, Joseph Milton, Percy Milton, Herbert Milton, Serena Milton and Pearl Milton, Henry C. Ridge, Ida Jones, Lee Martin, Eddie Martin and Stella Martin, Cornelius Jones, Elacra Vann, Haud Riley, Jesse Barnett and John C. Riley, Rosa Vann and Josephine Vann, William

Secretary--2.

Townsend, Nellie Townsend, Rosa Townsend, George Townsend
and Arthur Townsend, Nettie Hicks, Leroy Hicks, Dennis Hicks
Jr., Delana Hicks, Mabel Hicks and Elmer Hicks, Joshua Holt,
Jane Holt, Laura Deeson, Ella Deeson, Jessie Holt, Willard
Holt, Clifford Holt and Paulina (Marcella) Holt, Sallie Miller,
Mary Johnson, Ruth Vann, Martha Chinnett and Lillie Chinnett,
Frank Johnson and Lucilla Johnson, Eliza Hawkins and Tyndle E.
Hawkins, Joseph Hicks, Otto A. Hicks, Katie Hicks, James A.
Hick, Frances Johnson, Nettie Johnson, Katie Johnson, Clarence
Johnson and Wilda Johnson, Anna Dutler, Esther Owen, Howard
Bushman, Katie Davis, Moses Riley, Lillie Riley, Andrew Riley,
Nathaniel Riley, Jesse Riley, Joseph Riley, Clara Riley, Viola
Riley, Mabel Riley, Elvira Riley, Idella Riley, Luther D. Riley,
Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph
Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence
Riley, Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley,
Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley,
Ada Riley and Leona Riley, Fannie Scott, Charles Wesley
Killer, Fessie Scott and Jimmie Scott, Delilah Johnson, Allie
Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Ucie
Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie

Secretary--3.

Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson and Arch Johnson, Jane Riley, Daniel Thompson, Ellick Ward, Amanda Ward, Henrietta Ward, Irvin Ward, Harry Ward, Roy Ward, Dan Ward, Effie Ward, Troy Ward, Jesse Ward and Maise Ward, Sandy Thompson, Ruth Riley, Lenora Odine Riley and Hannah Riley, Charles Landrum, Bettie McIntosh, William Riley, Carrie Gibson, Cora J. Wagner and Oval Wagner, Arthur Riley, Elizabeth Melton and Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls and Beatrix Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, and Clyde Thompson, for enrollment as Cherokee Freedmen, and dismissing the applications for enrollment as Cherokee Freedmen of Ethel Townsend and Clarence Curls.

In connection with the finding of this office relative to the rights of Cornelius Ridge to enrollment as a Cherokee freedman, case No. D 536, the same being included in the consolidated case of Katie Ridge, et al., herewith transmitted, the attention of the Department is invited to the case of Enoch Daniels, et al., Cherokee Freedman No. 1429, formerly Cherokee Freedman D 219, wherein, in its de-

Secretary--4.

cision rendered on July 5, 1904, the Commission to the Five Civilized Tribes found, inter alia, that one Laura Daniels, nee Ridge, daughter of the said Cornelius Ridge, was entitled to enrollment as a Cherokee Freedman, said finding being concurred in by the Commissioner of Indian Affairs on September 24, 1904 (Land 57605-04), and affirmed by the Department on October 22, 1904 (I.T.D. 7724-04), and in conformity thereto said applicant's name was placed upon a schedule of Cherokee Freedmen forwarded to the Department on June 26, 1905, and she is now included in a partial roll of Cherokee freedmen approved by the Secretary of the Interior on July 27, 1905, opposite No. 3907.

The right of this applicant, Laura Daniels, nee Ridge, who was born since 1866, to enrollment as a Cherokee freedman was based upon the theory that her father the said Cornelius Ridge had "heretofore been enrolled by this Commission as a Cherokee freedman", which, as the consolidated case herewith transmitted indicates, was error.

It is, therefore, respectfully recommended that, if the Department affirms the decision of this office as to the rights of the said Cornelius Ridge to Cherokee freedman

Secretary--S.

citizenship; the case of Enoch Daniels, et al., Cherokee Freedman 1429, formerly Cherokee Freedman D 219, be reopened, and the decision therein, in so far as it grants to the said Laura Daniels, nee Ridge, the right to Cherokee Freedman citizenship, be reversed.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner

Incl. # 16. ✓
LMB

Cherokee Freedmen

COPY.

D-260.

Muskogee, Indian Territory, October 13, 1905.

Andrew Riley,

Alluwee, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated October 13, 1905, rejecting, among others, your application for the enrollment of yourself and minor child, Nathaniel Riley, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in this case, has this day been forwarded to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED).

Tame Dixie.
Commissioner.

Incl. S-101
Register

-COPY-

Muskogee, Indian Territory, November 11, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a motion of G. P. Fogle, attorney for Moses Riley, et al., that the applicants embraced in the consolidated applications of, among others, Moses Riley, et al., Freedmen D-258, be enrolled "upon the testimony on file in the respective cases". It is stated in an affidavit attached to the motion signed by G. P. Fogle, that a copy of said motion was forwarded by registered mail to James S. Davenport and L. B. Bell, attorneys for the Cherokee Nation, and that the receipt of the post master was attached thereto. The registry receipt referred to was not received at this office with said motion.

The record in the matter of the application for the enrollment of Moses Riley, et al., was forwarded to the Department on October 13, 1905, the cases with which it was consolidated being styled Katie Ridge, et al., Freedmen D-295.

Respectfully,

Incl. S-122

Commissioner.

Through the

Commissioner of Indian Affairs.

--Copy--

LAND:

83807-91559-1905.
91821-91843-1905
91492-101897-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

JTA

December 22, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes dated October 13, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Katie Ridge for herself; by Cornelius Ridge for himself and wife Laura Ridge (by intermarriage) and his minor children, Pearl, Jesse, and Myrtle Ridge; by Phoebe Milton Johnson for herself and her minor children, Joseph, Percy, Herbert, Serena, and Pearl Milton; by Henry C. Ridge for himself; by Ida Jones for herself and her minor children, Lee, Edie, Stella, and Cornelius Jones; by Charles J. Lynch for his wife, Amy Lynch (by intermarriage) by Walter Vann for his wife, Elvora Vann; by Maud Riley for herself and her minor children, Jesse Barnett and John C. Riley; by Rosa Vann for herself and her minor child, Josephine Vann; by William Townsend for himself; by Mollie Townsend for herself and her minor children, Rosa, George, Arthur, and Ethel Townsend; by Dennis Hicks for himself (by intermarriage) and wife Bettie Hicks and his minor children, Leroy, Dennis, Jr., Delana, Mabel, and Elmer Hicks; by Joshua Holt for himself and wife,

Jane Malt and minor step-children, Laura and Ella Deeson and minor children, Jessie, Willard, Clifford, and Marcella (Marcella) Malt; by Sallie Miller for herself; by Mary Johnson for herself; by Ruth Chinnett and for herself and her minor children, Martha, and Little Chinnett; by Frank Johnson for himself and his minor child, Liella Johnson; by Eliza Hawkins for herself and her minor child, Tyndle E. Hawkins; by Joseph Hicks for himself and wife, Susie Hicks (by intermarriage) and minor child, Otto A. Hicks; by Katie Hicks for herself; by James A. Hicks for himself; by Frances Johnson for herself and her minor children, Nettie, Katie, Clarence, and Wilda Johnson; by Anna Butler for herself and her minor child, Esther Owen, and her adult brother, Howard Bushyhead; by Katie Davis for herself; by Moses Riley for himself and minor child, Lillie Riley; by Andrew Riley for himself and his minor child, Nathaniel Riley; by Jesse Riley for himself and his minor children, Joseph, Ollie, Viola, Mabel, Minera, Ideller, and Luther D. Riley; by Frank Riley for himself and his minor children, Lettie, Fannie, James, Ralph, Arizona, Clarence, Inola and Earl E. Riley; by Jerry Riley for himself and his minor children, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada, and Leona Riley; by Fannie Scott for herself and her minor children, Charles Wesley Miller, and Bessie, and Jimmie Scott; by Delilah Johnson for herself and her minor children, Allie, Luman, Jesse, Alfred, Nola, Della, Ella and Harrison Johnson; by Lettie Johnson for herself and her minor children, Rebecca, Luford, Wilbert, and Arch Johnson; by Jane Riley for herself; by Daniel Thompson for himself; by Eliak Ward

for himself and wife, Amanda Ward, and his minor children, Irvin, Harry, Roy, Dan, Effie, Trey, Jesse, and Maise Ward; by Sandy Thompson for himself; by Ruth Riley for herself, and her minor child, Lenora Odine Riley; by Hannah Riley for herself; by Charles Landrum for himself; by Bettie McIntosh for herself; by William Riley for himself; by Carrie Gibson for herself; by Cora J. Wagoner for herself and her minor child, Oval Wagoner; by Arthur Riley for himself; by Elisabeth Melton for herself and her minor child, Minora Melton; by Julius Curls for himself; by Riley Curls for himself and his minor children, Willie, Edward, James, George, Stephenia, Clarence, and Beatrice Curls; and by Ophelia Thompson for herself and her minor children, Alpha, Libbie, Herschel, Harvey, and Clyde Thompson.

October 13, 1905, the Commissioner decided adversely to all the applicants.

The record shows that the applicant, Katie Ridge, is the mother of the applicants, Cornelius Ridge, Phoebe Johnson, Jesse Ridge, deceased, and Mary Ridge (later Hicks, former wife of Dennis Hicks, Sr.), deceased; that they were the slaves of Cherokee citizens at the beginning of the War of the Rebellion, were taken out of the Cherokee Nation, during the War, and did not return thereto on or before February 11, 1867; that the applicants, Laura Ridge, and Amy Lynch neither claim nor possess any rights to enrollment other than those obtained by marriage to the applicants, Cornelius Ridge and Jesse Ridge, deceased; that the applicants, Dennis Hicks, Sr., and Susie Hicks neither claim nor possess

any rights to enrollment other than by virtue of their marriage to Bettie and Joseph Hicks; that the applicants, Bettie Hicks, Joshua Holt and Gallie Miller (children of one Esther Holt), and Anderson Johnson, deceased, Buck Bushyhead, deceased, and Nettie Downing, deceased, were the slaves of Cherokee citizens at the beginning of the War of the Rebellion; were taken out of the Cherokee Nation during the War, and did not return on or before February 11, 1868; that one Riley McNair and one Maria McNair, both deceased were the parents of the applicants, Moses, Andrew, Jesse, Frank and Jerry Riley, Fannie Scott, Delilah and Lottie Johnson, and of Millie McNair, deceased; that the said Riley, Maria, and Millie McNair, all deceased, and Moses, Andrew, Jesse, and Jerry Riley, Fannie Scott and Lottie Johnson, and Jane Riley, Daniel Thompson, Ellick and Amanda Ward and Sandy Thompson and Ben Landrum, deceased, Harrison Johnson, deceased, and Columbus Rogers, deceased, were the slaves of Cherokee citizens at the beginning of the War of the Rebellion, were taken out of the Cherokee Nation during the war and did not return thereto on or before February 11, 1867; that all the other applicants were born since 1866, are descendants of the foregoing and possess no rights to enrollment except as such descendants, or have failed after ample opportunity afforded to establish such a right. None is identified on the 1880 authenticated Cherokee roll, or the Cherokee census roll of 1896 nor can an ancestor be so identified.

There is also enclosed a letter from the Commissioner to the Five Civilized Tribes transmitting a motion in behalf

-5-

of the applicants and three communications from G. P. Fogle
enclosing motions in their behalf which have been carefully
considered.

In view of the record the approval of the Commissioner's
decision adverse to all the applicants is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MX
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JFFr

DEPARTMENT OF THE INTERIOR, LLB

Washington.

D.C.29336.

I.T.D.17224-1905.

July 9, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On October 13, 1905, you transmitted the record, together with your decision of the same date, in the matter of the consolidated applications for enrollment as Cherokee freedmen of Katie Ridge et al. (Cherokee freedmen D. 295). Said decision was adverse to all the applicants.

Reporting December 22, 1905, the Indian Office concurs in your decision. A copy of its letter is inclosed.

The attorneys for the applicants have filed a number of motions and briefs in this case, and the attorney for the Cherokee Nation has filed his answer.

A consideration of these motions, together with the record, leads the Department to the opinion that the case should be remanded for a further hearing.

The Department considers that this consolidated case should be divided, and that if possible the division should divide this large family into groups according to the three places from which

it is alleged they returned to the Indian Territory, under article 9 of the treaty of 1866, being first these persons and their descendants who returned from the neighborhood of Joplin, Mo.; second, those who returned from near Fort Scott, Kans., and third, those who returned from Garnett, Kans.

Having divided this case along the lines indicated, you will permit the attorneys for the applicants and for the nation to submit such proper evidence as they may see fit regarding the rights of these applicants for enrollment as Cherokee freedmen.

The record is returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos Ryan
Assistant Secretary.

1 inclosure.

Cherokee Freedman
D 260

Muskogee, Indian Territory, August 6, 1906.

Andrew Riley,

Alluwee, Indian Territory.

Dear Sir:

In connection with your Cherokee freedman case, you are advised that this office is in receipt of Departmental letter of July 9, 1906, remanding the same to this office for a rehearing. The Department directs that the consolidated case of Katie Ridge, et al, which includes your application, be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that under this division the following cases will be consolidated.

D 258
D 260
D 261
D 262
D 263
D 266
D 267
D 268
D 600
D 606
D 623
D 693
D 579
D 569
D 601
D 903
D 603

Moses Riley, et al,
Andrew Riley, et al,
Jesse Riley, et al,
Frank Riley, et al,
Jerry Riley, et al,
Fannie Scott, et al,
Delilah Johnson, et al,
Lottie Johnson, et al,
Jane Riley,
Daniel Thompson,
Elick Ward, et al,
Sandy Thompson,
Ruth Riley, et al,
Hannah Riley,
Charles Landrum
Bettie McIntosh,
William Riley,

D 704
D 870
D 871
D 441
D 269
D 270
D 271

Carrie Gibson,
Cora J. Wagoner, et al,
Arthur Riley,
Elizabeth Melton, et al,
Julius Curle,
Riley Curle, et al,
Phelia Thompson, et al.

Your attorneys, Edgar Smith, Muskogee, Indian Territory, and G. P. Fogle, Vinita, Indian Territory, have this day been advised of the Department's action, and of the consolidation of the above cases, and also requested to advise this office at the earliest practicable date the names and addresses of all the witnesses it is proposed to introduce on behalf of applicants in this case. When this information is furnished, the Attorney for the Cherokee Nation will be advised thereof, and a date will be set for a hearing in the case, of which action all parties at interest will be advised.

Respectfully,

M.A.

Register.

Commissioner.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman consolidated cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. In accordance with the Department's direction, the following cases will be consolidated:

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al,
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Lottie Johnson, et al,
D 268	Lottie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Eliok Ward, et al,
D 693	Sandy Thompson,
D 879	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum,
D 903	Bettie McIntosh,
D 603	William Riley,
D 704	Carrie Gibson,
D 870	Cora J. Wagoner, et al,
D 571	Arthur Riley,
D 441	Elizabeth Melton, et al,
D 269	Julius Curle,
D 270	Riley Curle, et al,
D 271	Ophelia Thompson, et al.

The applicants in these cases, and their attorneys have this day been advised of the Department's action and of the consolidation of these cases, and notified that before a date would be fixed for a hearing in the cases, they will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, you will be advised thereof, and a date will be set for a hearing in the case, of which action all parties at interest will be advised.

For your information there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

Acting Commissioner.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

Edgar Smith,

Attorney for Katie Ridge, et al,

Muskogee, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman enrollment cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. The Department directs that this consolidated case be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that in accordance with this division, the following cases will be consolidated.

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Lettie Johnson, et al,
D 600	Jane Riley,
D 506	Daniel Thompson,
D 623	Elick Ward, et al,
D 693	Sandy Thompson
D 579	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum
D 903	Bettie McIntosh,
D 603	William Riley,

D 704
D 870
D 871
D 441
D 269
D 270
D 271

Carrie Gibson,
Cora J. Wagener, et al,
Arthur Riley,
Elizabeth Melton, et al,
Julius Guris,
Riley Guris, et al,
Ophelia Thompson, et al,

The records of this office show that you and G. P. Fogle, Vinita, Indian Territory, are the attorneys of record for all of the above named applicants except Charles Landrum, D 601, whose agent is I. P. Bledsoe, Chouteau, Indian Territory. You are advised that before a date will be set for a hearing in this case, the applicants will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, the Attorney for the Cherokee Nation will be notified thereof, and a date set for a hearing in the case, of which all parties at interest will be advised.

Messrs. Fogle and Bledsoe, have this day been advised of the Department's action and of what will be required of the applicants, and before submitting the list of the names and addresses of the witnesses, it is suggested that you communicate with them and submit at one time a list of all of the witnesses expected to be introduced.

For your information there is enclosed herewith copy of Departmental letter referred to.

Respectfully,

M.A. Encl. 7-2.

Cherokee Freedman
D 295 et al.

Muskogee, Indian Territory, August 7, 1906.

G. P. Fogle,

Attorney for Katie Ridge, et al,
Vinita, Indian Territory.

Dear Sir:

In connection with the Cherokee freedman enrollment cases of Katie Ridge, et al, you are advised that this office is in receipt of Departmental letter of July 9, remanding said cases to this office for rehearing. The Department directs that this consolidated case be divided according to the places from which it is alleged the applicants returned to the Indian Territory under the Treaty of 1866. You are advised that in accordance with this division, the following cases will be consolidated.

D 258	Moses Riley, et al,
D 260	Andrew Riley, et al,
D 261	Jesse Riley, et al,
D 262	Frank Riley, et al,
D 263	Jerry Riley, et al,
D 266	Fannie Scott, et al,
D 267	Delilah Johnson, et al,
D 268	Lottie Johnson, et al,
D 600	Jane Riley,
D 606	Daniel Thompson,
D 623	Elick Ward, et al,
D 693	Sandy Thompson,
D 579	Ruth Riley, et al,
D 569	Hannah Riley,
D 601	Charles Landrum,
D 903	Bettie McIntosh,
D 603	William Riley,

D 704
D 870
D 871
D 441
D 269
D 270
D 271

Carrie Gibson,
Cora J. Wagoner, et al,
Arthur Riley,
Elizabeth Melton, et al,
Julius Gurls,
Riley Gurls, et al,
Ophelia Thompson, et al.

The records of this office show that you and Edgar Smith, Muskogee, Indian Territory, are the attorneys of record for all of the above named applicants except Charles Landrum, D 601, whose agent is I. P. Bledsoe, Cheuteau, Indian Territory. You are advised that before a date will be set for a hearing in this case, the applicants will be required to furnish this office with a list of the names and addresses of the witnesses they propose to introduce in their behalf. Upon receipt of this information, the Attorney for the Cherokee Nation will be notified thereof, and a date set for a hearing in the case, of which all parties at interest will be advised.

Messrs. Smith and Bledsoe, have this day been advised of the Department's action and of what will be required of the applicants, and before submitting the list of the names and addresses of the witnesses, it is suggested that you communicate with them and submit at one time a list of all the witnesses expected to be introduced.

For your information there is enclosed herewith a copy of Departmental letter referred to.

Respectfully,

M.A.

Acting Commissioner.

November 1, 1906.

The Honorable,

The Commissioner to the Five Civilized Tribes,
Muskogee Indian Territory

Dear Sir:

In the matter of the consolidated Cherokee Freedmen enrollment cases of Moses Riley et al we have the honor to submit the following as the list of witnesses on behalf of the applicants.

- 1---The applicants, in their own behalf.
- 2---Christian Shull, Sugar Grove, Ohio.
- 3---Hiram Spriggs, Watton, Illinois.
- 4---James Manspeaker, Mount Ida, Kansas.
- 5---John W. Campbell, Garnett, Kansas
- 6---Newton Spriggs, Garnett, Kansas
- 7---John S. Johnston, Cawker City, Kansas
- 8---Wilson Wilson, Garnett, Kansas
- 9---Edward Farrah, Cedarvale, Kansas.
- 10---J. W. Johnston, Garnett, Kansas
- 11---Sam Gibson, Bronson, Kansas
- 12---Ben Hydern, Garnett, Kansas
- 13---Ann Martin, Garnett, Kansas
- 14---J. B. Hardesty, Garnett Kansas
- 15---Valinda Gibson, Kansas City Mo.
- 16---Herschel Cloud, Topeka, Kansas.
- 17---Dill Shultz, Peru, Kansas
- 18---John Tyler, Garnett, Kansas
- 19---William Ray, Garnett, Kansas.
- 20---John Shultz, Peru, Kansas.

- 21---Thomas Shultz, Peru, Kansas
- 22---George A. Campbell, Garnett, Kansas
- 23---J. W. Johnson, Garnett, Kansas
- 24---Arelia Pettit or Percival, Ft Gibson or Muskogee I.T.
- 25---Lucy Lanley, FtGibson I T
- 26---Wannie Sheppard, Ft Gibson I T
- 27---Simon Lynch, Chaffe I T
- 28---Daniel Sanders, Centralia I T
- 29---Reuben Sanders, Centralia, I T
- 30---Helson Moore, Ketchum I T
- 31---Thomas H. Moore, Ketchum I T
- 32---Arthur Bean, Chaffe, I T
- 33---Leander, Bean, Vinita I T
- 34---Tobias Bean, Chaffee, I T
- 35---Millie Fry, Ketchum I T
- 36---Joseph Bean, Chaffee, I T
- 37---June Martin, Chaffee, I T
- 38---Frank Ross, Hayden, I T
- 39---Sam Butler, Chouteau I T
- 40---Joe Davis, Vinita I T
- 41---George Muskgrove, Lenapah I T
- 42---Becky Muskgrove, Lenapah, I T
- 43---Katie Varn, Lenapah I T
- 44---Betsey Whitnire, Hayden, I T
- 45---Elisa Whitnire, Hayden, I T
- 46---Aaron Wright, Hayden, I T
- 47---Lewis Whitnire, Hayden, I T
- 48---William Madden, Hayden, I T
- 49---Harry Still, Hayden, I T
- 50---Edith Varn, Chouteau I T
- 51---Joe Digus Tahlequah I T
- 52---Hoses Dykes, Garnett Ka

Respectfully,

(Signed) Starr & Patten

Cherokee Freedman
D 260 et al.

Muskogee, Indian Territory, November 5, 1906.

Andrew Riley,
Alluwee, Indian Territory.

Dear Sir:

In connection with your Cherokee freedmen case, you are advised that on December 7, 1906, your case will be taken up for hearing at which time you will be permitted to introduce on your behalf the testimony of the witnesses whose names and addresses your attorneys, Starr and Patten, Vinita, Indian Territory, submitted to this office in their letter of November 1, 1906.

The Cherokee Nation will be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in your case.

Respectfully,

Commissioner.

MMP

Cherokee Freedmen
D. 256 et al.

Muskogee, Indian Territory, November 5, 1906.

Starr & Patten,

Attorneys for Moses Riley, et al.

Vinita, Indian Territory.

Gentlemen:

Referring to your letter of November 1, 1906, submitting a list of the names and addresses of the witnesses you expect to introduce on behalf of applicants in the Cherokee freedmen cases of Moses Riley, et al., you are advised that you will be permitted to appear before the Commissioner in Muskogee, Indian Territory, on December 7, 1906, and introduce the testimony of the witnesses named by you.

The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in these cases.

Respectfully,

Commissioner.

EDP

Cherokee Freedmen
D 258 et al.

Muskogee, Indian Territory, November 5, 1906.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is enclosed a copy of a letter from Starr and Patten, attorneys for applicants in the Cherokee freedmen cases of Moses Riley, et al., dated November 1, 1906, giving a list of the names and addresses of fifty-two witnesses they expect to introduce on behalf of applicants in the Cherokee freedmen cases of Moses Riley, et al.

You are advised that the applicants and their attorneys have this day been notified that they will be permitted to appear before the Commissioner to the Five Civilized Tribes on December 7, 1906, and introduce, on behalf of applicants, the testimony of the witnesses whose names and addresses they submitted.

The Cherokee Nation will also be permitted to appear on that date and introduce in rebuttal, such testimony as it desires in the case.

Respectfully,

MMP
Incl. 2-5.

Commissioner.

Cherokee F.
D 260

COPY

Muskogee, Indian Territory, February 27, 1907.

Andrew Riley,

Alluwee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting, among others, the application for the enrollment of yourself and son, Nathaniel Riley, as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams*

Commissioner.

Encl. H-2
JMH

Register.

Cherokee F.
D 258 et al.

Muskogee, Indian Territory, February 27, 1907.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Muskogee, Indian Territory.

Gentlemen:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Gurlis and Ethel Townsend as Cherokee freedmen, and rejecting the applications for the enrollment of Moses Riley, et al. as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings had in the case.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. E-48
JMH

Commissioner F.

Cherokee F.
D 255 et al.

Muskogee, Indian Territory, February 27, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

There is enclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Gurla and Ethel Townsend as Cherokee freedmen, and rejecting the applications for the enrollment of Moses Riley, et al. as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. You will be advised of the Secretary's action as soon as this office is informed of the same.

Respectfully,

Encl. H-50
JMH

Commissioner.

COPY

Muskogee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment of Moses Riley, et al. (D 258 et al), as Cherokee freedmen, together with the decision of the Commissioner, dated February 27, 1907, dismissing the applications for the enrollment of Clarence Gurls and Ethel Townsend, and rejecting the applications for the enrollment of Moses, Lillie, Andrew, Nathaniel, Jesse, Joseph, Ollie, Viola, Mabel, Elnera, Ideller, Luther D., Frank, Lottie, Fannie, James, Ralph, Arizona, Inola, Earl E., Clarence, Jerry, Samuel, James E., Amanda, Mariah, Maggie, Calvin, Bertha, Ada and Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie and Jimmie Scott, Delilah, Allie, Luman, Jesse, Alfred, Nola, Della, Ella, Harrison, Lottie, Rebecca, Luford, Wilbert and Arch Johnson, Jane Riley, Daniel Thompson, Eliek, Amanda, Henrietta, Irvin, Harry, Ray, Dan, Bessie, Troy, Jesse and Elaine Ward, Sandy Thompson, Ruth, Lemera Odine and Hannah Riley, Charles Landrum,

Bettie Malutech, William Riley, Carrie Gibson, Cora J. and
Oval Waggoner, Arthur Riley, Elizabeth and Elmore Malton,
Julius Riley, Willie, Edward, James, George, Stephen and
Beatrice Carl, Ophelia, Alpha, Libbie, Michael, Harvey and
Glyde Thompson, Nellie, Ross, George and Arthur Townsend,
Euna Furtle, Ellen Bean, Walter, Vaneta, Frank, Riley and
Levet Vann, as Cherokee freedmen.

Respectfully,

(SIGNED *Vams Dinty*

Commissioner.

Encl. H-58

JMH

Through the Commissioner
of Indian Affairs.

(COPY)

LAND
21760-1907

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the consolidated application for the enrollment of Moses Riley, et al., as Cherokee freedmen, wherein a final decision of rejection was rendered by the Commissioner as to all the parties applicant on February 27, 1907.

This case was remanded by the Department for further investigation, and a large number of witnesses were sworn and testified in the case, and 285 pages of additional testimony taken. In addition to the oral evidence, certain original and certified copies of records throwing light on the contentions of the parties, were filed with the record and are now submitted.

Commissioner Bixby found that the applicants had not been in such a manner recognized by the tribal authorities of the Cherokee Nation as freedmen of that Nation as to entitle them under the present laws to enrollment as freedmen of the Cherokee Nation. The Office cannot concur in this recommendation.

The Supplemental evidence submitted, in the judgment of the Office, by a clear preponderance thereof shows that

(2)

Samuel Riley, or Riley McNair, who was at the beginning of the War of the Rebellion a slave of a Cherokee citizen, returned to the Cherokee Nation within the time prescribed by the treaty of 1866 and re-established himself therein. Documentary and other evidence clearly showing recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the Nation is in the record. It is also shown that all the applicants have resided throughout their entire lives, or for many years, in the Cherokee Nation, and no serious question has been raised as to their right to so remain and occupy the tribal lands.

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered: Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elmore Riley, Ideller Riley, Luther D. Riley, Frank Riley, Lattie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley, -(son of Lottie Riley), Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, / Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Pessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson,

(3)

Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson,
Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson,
Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson,
Lenora Odine Riley (child of Jesse Riley), William Riley, Carrie
Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth
Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls,
Edward Curls, James Curls, George Curls, Stephenia Curls,
Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha
Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson,
Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend,
Arthur Townsend, Ethel Townsend, Emma Purtle, Frank Riley and
Lovat Vann (children of Emma Purtle and Jesse Vann), Julius
Curls, Jr., -(son of Riley Curls), Oak Leon Wagoner (son of
Cora J. Wagoner), Jesse Barnett (son of Maud and William Riley),
Ellen Vean, Walter Vann, Vaneta Vann, and John C. Riley (son of
William Riley).

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

EEH-LC..

VI
H7C

(COPY)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 4, 1907.

Land

21888-1907

21899-1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed records of the Commissioner to the Five Civilized Tribes in the matter of the applications of Julius Curls and Elmore Vann, applicants for enrollment as Cherokee freedmen, wherein decisions adverse to them were rendered by the Commissioner to the Five Civilized Tribes.

On the 2nd instant the Office in forwarding the Cherokee freedman case of Moses Riley recommended that the parents of these applicants, through whom they claim their rights, be enrolled. It necessarily follows, since the applications in these cases were made within the time prescribed by law, that if the parents were entitled, so are the children. It is therefore recommended that the adverse decisions of the Commissioner in these cases be reversed and that Julius Curls and Elmore Vann be enrolled as Cherokee freedmen.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBH:GH

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
J.W.H.
W.C.P.
J.R.W.

I.T.D.
7912-1907.
8018-8042-1907:

F.L.C.

March 4, 1907.

The Commissioner to the
Five Civilized Tribes.

Sir:

The Department has considered the record in the matter of the consolidated applications for the enrollment of Moses Riley et al. as Cherokee freedmen, which was the subject of your decision of February 27, 1907, adverse to the applicants.

It seems that this case is now before the Department with additional testimony taken upon rehearing beginning October 26, 1906. There is no question as to the right of the common ancestor of these applicants, as well as the older parties to the case, to avail themselves of the opportunity afforded by article 9 of the treaty of 1866, between the United States and the Cherokee Nation, to acquire citizenship therein. The only question in issue concerns the date of the return of the common ancestor and his children to the Cherokee Nation. On the part of the applicants it is alleged that such return was made in the year 1866, it being claimed that the father of the family went first to the nation early in the spring of that year, and later returned to Kansas for the other members of the family, with whom he removed from Kansas to the Cherokee Nation in the fall of that year.

On behalf of the Cherokee Nation it is contended that the head of the Riley family did not go to the Cherokee Nation until the spring of 1867, and that the removal of the family did not follow until the fall of that year.

In your said decision of February 27, 1907, you state that the testimony introduced on behalf of the Cherokee Nation shows conclusively that no crop was made on the McNair place (in the Cherokee Nation) by any member or members of this family in 1866, and that none of said family was on that place "after the war of the rebellion, earlier than, possibly, May, 1867". This statement is presumably designed as a finding contrary to certain portions of the testimony of the applicants tending to show that the head of the family raised a crop of corn on the McNair place during the year 1866.

It is further stated in said decision that the testimony introduced on behalf of the applicants, to the effect that when the Riley family left the State of Kansas, they went direct to the said McNair place in the Cherokee Nation, is uncontradicted. Following this statement an analysis is made of the testimony of Judge William Spriggs, which was in favor of the applicants, and the inference is drawn that the testimony of Mr. Spriggs is inaccurate in respect to time.

Reference is also made by you to the census roll of citizenship of the Cherokee Nation prepared in the year 1867 by W. Tompkins, who was appointed by the United States as

commissioner for that purpose. As the applicants' names do not appear upon this roll you infer that they did not return to the nation within the time limited by the treaty of 1866. Reference is also made to the decision rendered by a commission on citizenship in the Cherokee Nation about the year 1878, or 1879, relative to one Riley McNair. The record does not clearly disclose anything concerning this decision, save that it went "by default" apparently in favor of the plaintiff.

Reporting in the matter, March 2, 1907, the Indian Office stated that it could not concur in your recommendation adverse to the applicants, finding that the supplemental evidence, by a clear preponderance of proof, showed return of Samuel Riley, or Riley McNair, to the Cherokee Nation within the time prescribed by the treaty of 1866. The Indian Office also notes the existence of documentary and other evidence which, in its opinion, clearly shows recognition on the part of the Cherokee Nation and its officers of the various principal applicants herein as freedmen of the nation.

The Indian Office further shows that all the applicants have resided throughout their entire lives, or for many years, in the Cherokee Nation, and that no serious question has been raised as to their right to occupy tribal lands.

Concluding its report of March 2, 1907, the Indian Office recommends the enrollment of certain of the applicants,

but not all of them, in the following language:

It is the judgment of the Office therefore that the record as now constituted satisfactorily shows that the following persons are entitled to and should be enrolled, and it is recommended that the adverse decision of the Commissioner be reversed and that their enrollment be ordered: Moses Riley, Lilly Riley, Andrew Riley, Nathaniel Riley, Jesse Riley, Joseph Riley, Ollie Riley, Viola Riley, Mabel Riley, Elnora Riley, Idell Riley, Luther D. Riley, Frank Riley, Lottie Riley, Fannie Riley, James Riley, Ralph Riley, Arizona Riley, Inola Riley, Earl E. Riley, Clarence Riley (son of Lottie Riley), Jerry Riley, Samuel Riley, James E. Riley, Amanda Riley, Mariah Riley, Maggie Riley, Calvin Riley, Bertha Riley, Ada Riley, Leona Riley, Fannie Scott, Charles Wesley Miller, Bessie Scott, Jimmie Scott, Delilah Johnson, Allie Johnson, Luman Johnson, Jesse Johnson, Alfred Johnson, Nola Johnson, Della Johnson, Ella Johnson, Harrison Johnson, Lottie Johnson, Rebecca Johnson, Luford Johnson, Wilbert Johnson, Arch Johnson, Lenora Odine Riley (child of Jesse Riley), William Riley, Carrie Gibson, Cora J. Wagoner, Oval Wagoner, Arthur Riley, Elizabeth Melton, Elnora Melton, Julius Curls, Riley Curls, Willie Curls, Edward Curls, James Curls, George Curls, Stephenia Curls, Clarence Curls, Beatrice Curls, Ophelia Thompson, Alpha Thompson, Libbie Thompson, Hirschel Thompson, Harvey Thompson, Clyde Thompson, Mollie Townsend, Rosa Townsend, George Townsend, Arthur Townsend, Ethel Townsend, Emma Purtle, Frank, Riley and Lovat Vann (children of Emma Purtle, and Jesse Vann), Julius Curls, Jr. (son of Riley Curls), Oak Leon Wagoner (son of Cora J. Wagoner), Jesse Barnet (son of Maud and William Riley), Ellen Bean, Walter Vann, Waneta Vann, and John C. Riley (son of William Riley).

The Department has considered the additional testimony taken at the rehearing, and has further examined in connection therewith the testimony of the principal applicants taken theretofore. The work of examining the case has been materially

lightened by the careful briefs submitted by the attorneys, both for and against the applicants. In connection with said arguments there was submitted by the attorneys for the parties in interest a synopsis or analysis of the testimony relied upon, from which the relative weight of their contentions can be determined with some degree of certainty. With the assistance of said attorneys, and in view of the examination of the record referred to above, the Department has been able to reach a conclusion in the case.

It is not considered that the reasons given in your decision are sufficient to support the conclusion therein reached. It is believed that your decision is based more upon inference and negative proof than upon positive showing adverse to the applicants.

On the other hand it is found that the testimony of numerous witnesses who were acquainted with the older applicants during the war of the rebellion, and prior to the treaty of 1866, shows with a high degree of certainty that said applicants left the State of Kansas and removed to the Cherokee Nation in the fall of 1866. This conclusion is corroborated by various official records, which show that in the years past the members of the family have been regarded as citizens of the Cherokee Nation. Prominent among the witnesses who testified in their favor is Judge William Spriggs, referred to above. It appears that he is a man who has held positions of high honor in the

State of Kansas, and that his testimony is entirely trustworthy. Such testimony is verified in material respects by that of numerous other white citizens of Kansas, who were his neighbors during the war. According to the testimony of Judge Spriggs, he advised the father of the principal applicants early in the year 1866, during the pendency of the treaty with the Cherokee Indians to remove to the Cherokee Nation, in order to secure their rights. An effort has been made to discredit the testimony of Judge Spriggs because it tends in part to show that the Cherokee freedmen were adopted by act of Congress, or treaty, in the spring of 1866, when as a matter of history the treaty with the Cherokees was not ratified until July 19th of the year 1866.

It is found, however, that at the close of the war of the rebellion new treaties with the Five Civilized Tribes were necessary on account of the attitude assumed by them during the war, and because of the changed conditions resulting from it. Consequently negotiations with said tribes were begun as soon as possible after the close of the war, and were under way as early as April of 1866. The testimony of a number of other prominent citizens in Kansas was given in favor of the applicants, showing the date of their removal to the nation. Said testimony is largely cumulative in character, and need not be further referred to. It is considered important, moreover, to observe that the testimony of the principal applicant in 1901, compared with that given him more than five years thereafter, is notably consistent in all material respects.

The testimony submitted on behalf of the Nation is not deemed sufficient to overcome that presented by the applicants or to show, of itself, that they should be denied enrolment. No serious attempt was made to refute the statements of Judge Spriggs and his neighbors although some effort was made to establish generally the probability of error in testimony after lapse of years. But if there is such probability it is no more likely to occur on one side than on the other, and in the case of Judge Spriggs and his associates I find that their memories were fortified and reinforced, through association, by important matters and events which enabled them to fix definitely the date of applicant's removal to the Nation. The Nation places considerable stress upon the testimony of Mary J. Thompson who claimed to have returned after the war to the Old McWair place, in the Cherokee Nation, in the fall of 1866, and who testifies that none of the Riley boys made a crop upon the place that year. This testimony necessarily relates to the spring and summer of 1866, yet it is not claimed that she herself returned to the Nation until November 1866. Manifestly decisive weight should not be attached to her testimony under such circumstances, her statements being, like that of others relied upon by the Nation, negative rather than positive. Even though all the force claimed be given the testimony of this witness as well as to that of others, including, particularly, Herman Vann, Key Catcher, and J. H. Covel, the De-

partment would not be warranted in denying the enrolment of the applicants, except as noted hereinafter. Accordingly, as the Department concurs in the recommendation of the Indian Office, you are directed to enroll the persons mentioned herein, whose names are contained in the extract quoted from Indian Office report of March 2, 1907, and set forth above, as Cherokee Freedmen.

Your decision of February 27, 1907 is reversed as to the persons named in Indian Office report of March 2, 1907 (Land 21760 - 1907) but as to the other persons who are parties to this case, your said decision, adverse to them, is hereby affirmed.

The Department has also considered the Cherokee Freedmen cases of Julious Curls and Elmore Vann, both of whom were denied enrollment by your decisions of February 28, 1907. The Indian Office recommends the enrollment of these children. Inasmuch as their parents are found herein to be entitled to enrollment, the Department concurs in the recommendation of the Indian Office and your said decisions, both dated February 28, 1907, are hereby reversed. You are accordingly directed to enroll Elmore Vann as a Cherokee freedman. The name of Julious Curls appears in the list quoted from Indian Office Report of the 2nd instant.

On February 28, 1908, by separate decisions, you also denied the enrolment of Jesse Riley, Oak Leon Wagoner, and Alice Riley, as Cherokee freedmen. The Indian Office reported under

date of March 4, 1907 that the enrolment of the parents of these children was recommended in its report of the 2nd instant. Such being the case, your said decisions of February 28, 1907, are hereby reversed and you are also directed to enroll the said Jesse Riley and Alice Riley as Cherokee freedmen. As to Oak Leon Wagoner, his name also appears hereinbefore in the list quoted from Indian Office letter of March 2, 1907.

A copy of this decision has been sent to the Indian Office, together with the papers in the cases referred to herein.

Very respectfully,

Jesse E. Wilson,

Acting Secretary.

A F Mc
3-4-07.

(COPY)

Land.

21,902-1907.

21,912-1907.

21,909-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 4, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed record of the Commissioner to the Five Civilized Tribes in the matter of the applications for enrollment of Jesse Riley, Oak Leon Wagoner and Alice Riley, as Cherokee freedmen.

The Commissioner to the Five Civilized Tribes rejected these applicants because he had already rejected their parents who were involved in the consolidated Cherokee freedmen case of Moses Riley, et al.

On the 2nd instant in forwarding the case of Moses Riley, et al., the Office recommended the enrollment of the parents of each of these minors.

It is therefore recommended that the adverse decisions of the Commissioner in these cases be reversed, and that the applicants be enrolled.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

(E.B.H.) P.

P.I.
H.C.

Cherokee F.
D 260.

Muskogee, Indian Territory, March 27, 1907.

Andrew Riley,

Alluwee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting, among others, your application for enrollment as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, and your applications are accordingly granted.

Respectfully,

Commissioner,

LMC

008.

Cherokee F.
D 258 et al.

Muskogee, Indian Territory, March 27, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting the application for the enrollment of Moses Riley, et al., as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, as to Moses Riley et al., and affirmed as to Jane Riley, et al.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

James Bixby.

Commissioner.

Encl. C-4
LMC

Cherokee F.
D 258 et al.

COPY

Maakegee, Indian Territory, March 27, 1907.

Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes, dated February 27, 1907, rejecting the application for the enrollment of Moses Riley, et al., as Cherokee freedmen, was reversed by the Secretary of the Interior, March 4, 1907, as to Moses Riley et al., and affirmed as to Jane Riley, et al.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *James H. Smith*
Commissioner.

Encl.C-5

LMC

D.O. 27552-1907.

I.T.
47951-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

CAV

May 29, 1907.

The Commissioner

to the Five Civilized Tribes,

Muskogee, Ind. Ter.

Sir:

On May 4, 1907, there was received by the Department motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application of Moses Riley, et al, for enrollment as Cherokee freedmen.

On May 17, 1907, the Department denied the motion. It is said in the Department's letter, however, that the denial of the motion will not affect the question as to the enrollment of Moses Riley, Clarence Curis, Ethel Townsend, John C. Riley and Julius Curis, Jr., which was submitted with Office letter of April 13, 1907, and is now pending before the Department.

You are requested to advise the interested parties, including the Attorney for the Cherokee Nation, of the Department's action.

Very respectfully,

(Signed) C. F. Larrabee,

Acting Commissioner.

CAV-GH.

Cherokee F 1569

Muskogee, Indian Territory, June 10, 1907.

Andrew Riley,

Alluwee, Indian Territory.

Dear Sir:

You are advised that the motion of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application for the enrollment of yourself and minor child as Cherokee freedmen was denied by the Department May 17, 1907.

Respectfully,

S.V.

Commissioner.

Cherokee v.
1848 et al.

Waskagee, Indian Territory, June 10, 1907.

Messrs. Starr & Patten,

Attorneys for Moses Riley, et al.,

Vinita, Indian Territory.

Gentlemen:

You are advised that the action of the Attorney for the Cherokee Nation to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee freedmen was denied by the Department May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl W-1.
S.W.

Commissioner.

Cherokee F
1568 et al.

Muskogee, Indian Territory, June 16, 1907.

W. W. Hastings,
Attorney for Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are advised that your motion to reconsider, review and reverse Departmental decision of March 4, 1907, in the matter of the application for the enrollment of Moses Riley, et al., as Cherokee freedmen was denied by the Department on May 17, 1907.

For your information there is enclosed copy of Departmental decision referred to.

Respectfully,

Encl.V-2.
S.W.

Commissioner.

NOTICE!

In the matter of the application of Andrew Riley et al for enrollment as a Cherokee Freedman.

Case No. D 260

To Andrew Riley

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Chelsea Indian Territory, on the following dates, to-wit: May 31st

A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 30th day of May 1901.

L. B. Bell
W. W. Hastings
J. S. Wardenport

A torneys for the Cherokee Nation.

United States of America, }
Indian Territory, } s. s.
Northern District. }

I do solemnly swear that I delivered a true copy of the within notice to
on the 30th day of May A. D. 1901.

Subscribed and sworn to before me this

MAY 30 1901
day of

1901.

J. C. Starr Notary Public.

F.D. 260

DEPARTMENT OF THE
COMMISSION TO THE FIVE CIVILIZED NATIONS.

FILED
MAY 31 1901



ACTING CHAIRMAN.

COMMISSIONERS

HENRY L. DAWES,
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 17th, 1901.

Received of the Commission to the Five Civilized Tribes,
in the matter of the application of Andrew Riley et al for en-
rollment as Freedmen of the Cherokee Nation, one copy of the origin-
al testimony of May 11th, 1901.

Mellette Smith

Attorney for Applicant.

Cherokee F. #D260.

C

D260

RECEIVED

JUN 27 1961

END
OF
ROLL

